

Ontario securities legislation : 1966-82.

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Ontario

To: Henry J. Knowles, O.C.
Chairman
Ontario Securities Commission

Date: December 20, 1982

From: Bruce Bailey
Assistant Legal Advisor

Re: Ontario Securities Legislation 1966 - 1982

Attached is a legislative history of securities legislation in Ontario from 1966 to 1982. The history of securities legislation for this period is as follows:

1. Securities Amendment Act, 1982 (Bill 176; 2nd reading November 2, 1982) ("1982")
2. Securities Act R.S.O. 1980, c. 466 ("1980")
3. The Securities Amendment Act, 1979 S.O. 1979, c. 86
4. The Securities Act, 1978 S.O. 1978, c. 47 (Bill 7) ("1978")
5. The Securities Amendment Act, 1973 S.O. 1973, c. 11 (Bill 15) ("1973")
6. The Government Reorganization Act, 1972 S.O. 1972, c. 1, s. 55
7. The Securities Amendment Act, 1971 S.O. 1971 vol. 2, c. 31 (Supp. to R.S.O. 1970) (Bill 49) ("1971") (previously published in S.O. 1971 vol. 1 c. 31)
8. The Securities Act R.S.O. 1970 c. 426 ("1970")
9. The Securities Amendment Act, 1968-69 S.O. 1968-69, c. 116 (Bill 159) ("1968-69")
10. The Securities Amendment Act, 1968 S.O. 1968, c. 123 (Bill 50) ("1968")
11. The Securities Amendment Act, 1967 S.O. 1967, c. 92 (Bill 54) ("1967")
12. The Securities Act, 1966 S.O. 1966, c. 142 (Bill 66) ("1966")

The provisions of the current Securities Act, 1980, appear in the left-hand column of the attached legislative summary. The proposed amendments of 1982 and the history of each section is given in the right-hand column commencing with the proposed amendments of 1982, if any, and tracing back through the legislation to 1966, or to a later introduction of a provision, as the case may be.

The earliest source of a provision is given e.g. with respect to subsection 1(3), controlled companies, since the legislative provision remained unchanged from 1966 to 1978, only the 1966 provision is set out on page 31. Likewise where a 1978 provision gives reference to the R.S.O. 1970 provision the earliest source is given if the provision was not amended by R.S.O. 1970 e.g. s. 18 on pp 81-82.

Where there is a slight variation in the wording of a provision all references are given e.g. the history of s. 5 on p. 46 gives the 1970 s. 13 reference as well as the 1966 s. 13 reference due to a small change made in the wording to subs. 13(1) in 1970.



SECURITIES ACT
R.S.O. 1980, c. 466.

INTERPRETATION

1.(1) Interpretation.—In this Act,

1. "adviser" means a person or company engaging in or holding himself or itself out as engaging in the business of advising others as to the investing in or the buying or selling of securities;

1(1)

1978

"adviser" means a person or company engaging in or holding himself or itself out as engaging in the business of advising others as to the investing in or the buying or selling of securities.

1968-69

1.--(1) Subsection 1 of section 1 of *The Securities Act, 1960*, as amended by section 1 of *The Securities Amendment Act, 1968*, is further amended by renumbering paragraph 1 as paragraph 1a and by adding thereto the following paragraph:

1. "adviser" means a person or company engaging in or holding itself out as engaging in the business of advising others as to the advisability of investing in or buying or selling securities.

1966

26. "securities adviser" means any person or company that engages in or holds himself or itself out as engaging in the business of advising others, either directly or through publications or writings, as to the advisability of investing in or purchasing or selling specific securities;

1982

- 1.—(1) Subparagraphs i and iv of paragraph 2 of subsection 1 (1) of the *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:
- i. any issuer of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the issuer for the time being outstanding,
 - iv. any relative of such person, including his spouse, where the relative has the same home as such person,
 - v. any relative of the spouse of such person where the relative has the same home as such person.

2. "associate", where used to indicate a relationship with any person ~~or~~ company means,

- i. any company of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the company for the time being outstanding,
- ii. any partner of that person or company,
- iii. any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity,
- iv. any relative of such person, including his spouse, or of his spouse who has the same home as such person;

1971

1. (1) Paragraph 2 of subsection 1 of section 1 of *The Securities Act* is repealed and the following substituted therefor:

2. "associate", where used to indicate a relationship with any person or company, means,

- i. any company of which such person or company beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding,
- ii. any partners of that person or company acting by or for the partnership of which they are both partners,
- iii. any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity,
- iv. any spouse, son or daughter of that person, or
- v. any relative of such person or of his spouse, other than a relative referred to in subparagraph iv, who has the same home as such person.

1970

2. "associate", where used to indicate a relationship with any person or company, means,

- i. any company of which such person or company beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding,
- ii. any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity, or
- iii. any relative or spouse of such person or any relative of such spouse who, in any such case, has the same home as such person; 1966, c. 142, s. 1 (1), par. 1; 1968-69, c. 116, s. 1 (1), *part*.

1966

1. "associate", where used to indicate a relationship with any person or company, means,

- i. any company of which such person or company beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding,
- ii. any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity, or
- iii. any relative or spouse of such person or any relative of such spouse who, in any such case, has the same home as such person;

1982

1. (2) Subsection 1 (1) of the said Act is amended by adding thereto ^{amended} the following paragraph:

2a. "board of directors" where used in relation to an issuer that is not a company includes persons acting in a capacity similar to that of a board of directors of a company.

1966

3. "Commission" means the Ontario Securities Commission;

4. "Commission" means the Ontario Securities Commission;

1978

4. "company" means any corporation, incorporated association, incorporated syndicate or other incorporated organization;

4. "company" means any corporation, incorporated association, incorporated syndicate or other incorporated organization;

1966

- 1 (1) 5. "company" means any incorporated corporation, incorporated association, incorporated syndicate or other incorporated organization;

1978

5. "contract" includes a trust agreement, declaration of trust or other similar instrument;

- 1 (1) 5. "contract" includes a trust agreement, declaration of trust or other similar instrument;

6. "contractual plan" means any contract or other arrangement for the purchase of shares or units of a mutual fund by payments over a specified period or by a specified number of payments where the amount deducted from any one of the payments as sales charges is larger than the amount that would have been deducted from such payment for sales charges if deductions had been made from each payment at a constant rate for the duration of the plan;

6. "contractual plan" means any contract or other arrangement for the purchase of shares or units of a mutual fund by payments over a specified period or by a specified number of payments where the amount deducted from any one of the payments as sales charges is larger than the amount that would have been deducted from such payment for sales charges if deductions had been made from each payment at a constant rate for the duration of the plan;

1. 1968-69
(3) Subsection 1 of the said section 1 is amended by adding 1968, c. 112, s. 1, amended

7. "dealer" means a person or company who trades in securities in the capacity of principal or agent;

54. "dealer" means a person or company who trades in securities in the capacity of principal or agent.

1978

8. "decision" means a direction, decision, order, ruling or other requirement made under a power or right conferred by this Act or the regulations;

8. "decision" means a direction, decision, order, ruling or other requirement made under a power or right conferred by this Act or the regulations;

1966

9. "Director" means the Director or any Deputy Director of the Commission;

6. "Director" means the Director or any Deputy Director of the Commission;

1978

10. "director", where used in relation to a person, includes a person acting in a capacity similar to that of a director of a company;

10. "director", where used in relation to a person, includes a person acting in a capacity similar to that of a director of a company;

11. "distribution", where used in relation to trading in securities, means,
- a trade in securities of an issuer that have not been previously issued,
 - a trade by or on behalf of an issuer in previously issued securities of that issuer that have been redeemed or purchased by or donated to that issuer,
 - a trade in previously issued securities of an issuer from the holdings of any person, company or combination of persons or companies holding a sufficient number of any securities of that issuer to affect materially the control of that issuer, but any holding of any person, company or combination of persons or companies holding more than 20 per cent of the outstanding voting securities of an issuer shall, in the absence of evidence to the contrary, be deemed to affect materially the control of that issuer,
 - a trade by or on behalf of an underwriter in securities which were acquired by that underwriter, acting as underwriter, prior to the 15th day of September, 1979 if those securities continued on that date to be owned by or for that underwriter, so acting,
 - a trade by or on behalf of an underwriter in securities which were acquired by that underwriter, acting as underwriter, within eighteen months after the 15th day of September, 1979, if the trade takes place during that eighteen months.
- and on and after the 15th day of March, 1981, includes a distribution as referred to in subsections 71(4), (5), (6) and (7), and also includes any transaction or series of transactions involving a purchase and sale or a repurchase and resale in the course of or incidental to a distribution and "distribute", "distributed" and "distributing" have a corresponding meaning;

1982
(b) Paragraph 11 of the said subsection 1(1) is amended,

- by repealing subparagraph A,
- by striking out "on and after the 15th day of March, 1981" in the thirty-second line, and
- by inserting after "(4)" in the thirty-third line "149)".

1973

11 "distribution", where used in relation to trading in securities means,

- a trade in securities of an issuer that have not been previously issued,
 - a trade by or on behalf of an issuer in previously issued securities of that issuer that have been redeemed or purchased by or donated to that issuer,
 - a trade in previously issued securities of an issuer from the holdings of any person, company or combination of persons or companies holding a sufficient number of any securities of that issuer to affect materially the control of that issuer, but any holding of any person, company or combination of persons or companies holding more than 20 per cent of the outstanding voting securities of an issuer shall, in the absence of evidence to the contrary, be deemed to affect materially the control of that issuer,
 - a trade by or on behalf of an underwriter in securities which were acquired by that underwriter, acting as underwriter, prior to the 15th day of September, 1979 if those securities continued on that date to be owned by or for that underwriter, so acting,
 - a trade by or on behalf of an underwriter in securities which were acquired by that underwriter, acting as underwriter, within eighteen months after the coming into force of this Act or of the day on which this Act comes into force, if the trade takes place during that eighteen months,
- and after the coming into force of subsections 4, 5, 6 and 7 of section 71, includes a distribution as therein referred to, that also includes any transaction or series of transactions involving a purchase and sale or a repurchase and resale in the course of or incidental to a distribution and "distribute", "distributed" and "distributing" have a corresponding meaning.

"distribution company" means a person or company distributing securities under a distribution contract;

"distribution contract" means a contract between a mutual fund or its trustees or other legal representative and a person or company under which that person or company is granted the right to purchase the shares or units of the mutual fund for distribution or to distribute the shares or units of the mutual fund on behalf of the mutual fund;

"distribution to the public", where used in relation to trading in securities, means a distribution that is made for the purpose of distributing to the public securities issued by an issuer, whether such trades are made directly or indirectly to the public through an underwriter or otherwise;

"distribution company" means a person or company distributing securities under a distribution contract;

"distribution contract" means a contract between a mutual fund or its trustees or other legal representative and a person or company under which that person or company is granted the right to purchase the shares or units of the mutual fund for distribution or to distribute the shares or units of the mutual fund on behalf of the mutual fund

1982

(4) Paragraph 14 of the said subsection 1 (1) is repealed

1978

14 "distribution to the public" where used in relation to trading in securities, means a distribution that is made for the purpose of distributing to the public securities issued by an issuer, whether such trades are made directly or indirectly to the public through an underwriter or otherwise

1971

(2) Subsection 1 of the said section 1 is amended by adding thereto the following paragraph:

but "distribution to the public" used in relation to trading in securities, means

i. trades that are made for the purpose of distributing to the public securities issued by a company and not previously distributed to the public, or

ii. trades in previously issued securities for the purpose of distributing such securities to the public where the securities form all or a part of or are derived from the holdings of any person, company or any combination of persons or companies holding a sufficient number of any of the securities of a company to materially affect the control of such company, but any person, company or any combination of persons or companies holding more than 20 per cent of the outstanding equity shares in a company shall, in the absence of evidence to the contrary, be deemed to materially affect the control of such company,

whether such trades are made directly to the public or indirectly to the public through an underwriter or otherwise, and includes any transaction of series of transactions involving a purchase and sale or a repurchase and resale in the course of or incidental to such distribution.

R.S.O. 1970,
s. 1, sub s. 1,
as amended

35. "form of proxy" means a written or printed form that, upon completion and execution by or on behalf of a security holder, becomes a proxy;

1978

15. "form of proxy" means a written or printed form that, upon completion and execution by or on behalf of a security holder, becomes a proxy;

1966

8. "form of proxy" means a written or printed form that, upon completion and execution by or on behalf of a shareholder, becomes a proxy;

1982

(5) The said subsection 1 (1) is further amended by adding thereto the following paragraph:

15a. "government incentive security" means a security of a type designated by the Commission for the purposes of paragraph 31 of subsection 34 (1) or clause 71 (1) (y) and designed to enable the holder thereof to receive a grant or other monetary benefit, such as a right to a credit against taxes or a deduction in the determination of income for tax purposes, pursuant to provisions of a statute or a regulation of Canada or Ontario or another province or territory of Canada.

1982

(6) Paragraph 16 of the said subsection 1 (1) is amended by striking out "personal" in the sixth line

1978

16. "Individual" means a natural person, but does not include a partnership, unincorporated association, trust, or a natural person in his capacity as trustee, executor, administrator or other legal personal representative.

1966

9. "individual" means a natural person, but does not include a trustee, partnership, unincorporated association, unincorporated syndicate, administrator or other legal personal representative.

16. "individual" means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his capacity as trustee, executor, administrator or other legal personal representative;

1978

17. "insider" or "insider of a reporting issuer" means,
 - i. every director or senior officer of a reporting issuer,
 - ii. every director or senior officer of a company that is itself an insider or subsidiary of a reporting issuer,
 - iii. any person or company who beneficially owns, directly or indirectly, voting securities of a reporting issuer or who exercises control or direction over voting securities of a reporting issuer or a combination of both carrying more than 10 per cent of the voting rights attached to all voting securities of the reporting issuer for the time being outstanding other than voting securities held by the person or company as underwriter in the course of a distribution, and
 - iv. a reporting issuer where it has purchased, redeemed or otherwise acquired any of its securities for so long as it holds any of its securities.

1978

18. "issuer" means a person or company who has outstanding issues of securities to issue a security;
19. "management company" means a person or company who provides investment advice, under a management contract;
20. "management contract" means a contract under which a mutual fund is provided with investment advice, alone or together with administrative or management services, for valuable consideration;
21. "material change" means a change in relation to the affairs of an issuer that would reasonably be expected to have a significant effect on the market price or value of any of the securities of the issuer and includes a decision to implement such a change made by the board of directors of the issuer or by senior management of the issuer who believe that confirmation of the decision by the board of directors is probable;

22. "material fact" where used in relation to securities issued or proposed to be issued means a fact that significantly affects, or would reasonably be expected to have a significant effect on, the market price or value of such securities;

23. "Minister" means the Minister of Consumer and Commercial Relations or other member of the Executive Council to whom the administration of this Act may be assigned;

1978

22. "material fact" where used in relation to securities issued or proposed to be issued means a fact that significantly affects, or would reasonably be expected to have a significant effect on, the market price or value of such securities;

1978

23. "Minister" means the Minister of Consumer and Commercial Relations or other member of the Executive Council to whom the administration of this Act may be assigned;

The Government Reorganization Act,
1972 S.O. 1972, c. 1

55. Paragraph 10 of subsection 1 of section 1 of *The Securities Act*, being chapter 42b of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

10. "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned.

1966

12. "Minister" means the Minister of Financial and Commercial Affairs or such other member of the Executive Council to whom the administration of this Act may be assigned;

24. "misrepresentation" means
i. an untrue statement of material fact, or

ii. an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made;

1978

24. "misrepresentation" means,

- i. an untrue statement of material fact, or
- ii. an omission to state a material fact;

25. "mutual fund" includes an issuer of securities that entitle the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets, including a separate fund or trust account, of the issuer of the securities;

26. "mutual fund in Ontario" means a mutual fund that is a reporting issuer or that is organized under the laws of Ontario, but does not include a private mutual fund;

1982

- 1. (7) The said subsection 1 (1) is further amended by adding thereto the following paragraph:

26a. "offering memorandum" means a document purporting to set forth information concerning the business and affairs of an issuer that has been prepared primarily for delivery to and review by prospective purchasers so as to assist those purchasers to make an investment decision in respect of securities being sold in a distribution to which section 52 or 61 would apply but for the availability of one or more of the exemptions contained in clause 71 (1) (c), (d), (p) or (y) but does not include,

- i. a document setting out current information about an issuer for the benefit of prospective purchasers familiar with the issuer through prior investment or business contacts except where an exemption under clause 71 (1) (d) or (y) is being relied upon, or
- ii. an annual report, interim report, information circular, take-over bid circular, issuer bid circular, prospectus or other such document, the content of which is prescribed by statute or regulation.

1978

27. "officer" means the chairman, any vice-chairman of the board of directors, the president, any vice-president, the assistant secretary, the treasurer, the assistant treasurer, and the general manager of a company, and any other person designated an officer of a company by by-law or similar authority, or any individual acting in a similar capacity on behalf of an issuer or registrant;

27. "officer" means the chairman, any vice-chairman of the board of directors, the president, any vice-president, the secretary, the assistant secretary, the treasurer, the assistant treasurer, and the general manager of a company, and any other person designated an officer of a company by by-law or similar authority, or any individual acting in a similar capacity on behalf of an issuer or registrant;

1966

13. "officer" means the chairman or any vice-chairman of the board of directors, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer or general manager of a company, or any other person designated an officer of a company by by-law or similar authority;

28. "person" means an individual, partnership, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative;

29. "portfolio manager" means an adviser registered for the purpose of managing the investment portfolio of clients through discretionary authority granted by the clients;

30. "portfolio securities" where used in relation to a mutual fund, means securities held or proposed to be purchased by the mutual fund;

31. "private company" means a company in whose constituting document

- i. the right to transfer its shares is restricted,
- ii. the number of its shareholders, exclusive of persons who are in its employment and exclusive of persons who, having been formerly in the employment of the company, were, while in that employment, and have continued after termination of that employment to be, shareholders of the company, is limited to not more than fifty, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder, and
- iii. any invitation to the public to subscribe for its securities is prohibited;

1978

28. "person" means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative;

1966

15. "person" means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal person registered or proposed to be registered;

1978

20. "portfolio manager" means an adviser registered for the purpose of managing the investment portfolio of clients through discretionary authority granted by the clients;

30. "portfolio securities" where used in relation to a mutual fund, means securities held or proposed to be purchased by the mutual fund

1982

(8) Subparagraph ii of paragraph 31 of the said subsection 1 (1) is removed and the following substituted therefor:

- i. the number of its shareholders, exclusive of persons who are in its employment or the employment of an affiliate and exclusive of persons who, having been formerly in the employment of the company or the employment of an affiliate, were, while in that employment, and have continued after termination of that employment to be, shareholders of the company, is limited to not more than fifty, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder, and

1978

31. "private company" means a company in whose constituting document

- i. the right to transfer its shares is restricted,
- ii. the number of its shareholders, exclusive of persons who are in its employment and exclusive of persons who, having been formerly in the employment of the company, were, while in that employment, and have continued after termination of that employment to be, shareholders of the company, is limited to not more than fifty, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder, and
- iii. any invitation to the public to subscribe for its securities is prohibited.

1966

17. "private company" means a company of whose instrument of incorporation,

- i. the right to transfer its securities is limited;
- ii. the number of its shareholders, exclusive of persons who are in its employment and exclusive of persons who, having been formerly in the employment of the corporation, were, while in that employment, or have continued after the termination of that employment to be, shareholders of the corporation, do not exceed fifty; and
- iii. any invitation to the public to subscribe for its securities is prohibited;

1982

32. "private mutual fund" means a mutual fund that is,

- i. operated as an investment club, where,
 - (a) its shares or units are held by not more than fifty persons and its indebtedness has never been offered to the public;
 - (b) it does not pay or give any remuneration for investment advice or in respect of trades in securities, except normal brokerage fees; and
 - (c) all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operations, or
- ii. administered by a trust company registered under the *Loan and Trust Corporations Act* and consists of,
 - (a) a pooled fund maintained solely to serve retirement savings plans, registered home ownership savings plans, or other savings plans registered under the *Income Tax Act* (Canada);
 - (b) a common trust fund as defined by subsection 111(1) of the *Loan and Trust Corporations Act*; or
 - (c) a pooled fund maintained by a trust company in which moneys belonging to various estates and trusts in its care are commingled, with the authority of the settlor, testator or trustee thereof, for the purpose of facilitating investment where no general solicitations are made with a view to the sale of participations in the pooled fund;

(9) Subparagraph ii of paragraph 32 of the said subsection 1 (1), exclusive of clauses (b) and (c), is repeated and the following substituted therefor:

- ii. administered by a trust company registered under the *Loan and Trust Corporations Act* and has no promoter other than one or more of such trust companies or one or more affiliates of such a trust company and has no manager other than one or more of such trust companies, one or more of such affiliates or a person or company who is a portfolio manager or but for the applicability of an exemption under this Act or the regulations would be obliged to be registered as a portfolio manager and consists of,
 - (a) a pooled fund maintained solely to serve retirement savings plans, home ownership savings plans, retirement income funds, deferred profit sharing plans, pension plans, or other such plans registered under the *Income Tax Act* (Canada),

1978

32. "private mutual fund" means a mutual fund that is,
- i. operated as an investment club, where,
 - (a) its shares or units are held by not more than fifty persons and its indebtedness has never been offered to the public;
 - (b) it does not pay or give any remuneration for investment advice or in respect of trades in securities, except normal brokerage fees; and
 - (c) all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operations, or
 - ii. administered by a trust company registered under *The Loan and Trust Corporations Act* and consists of,
 - (a) a pooled fund maintained solely to serve registered retirement savings plans, registered home ownership savings plans, or other savings plans registered under the *Income Tax Act* (Canada);
 - (b) a common trust fund as defined by subsection 1 of section 85 of *The Loan and Trust Corporations Act*, or
 - (c) a pooled fund maintained by a trust company in which money, belonging to various estates and trusts in its care are commingled with the authority of the settlor, testator or trustee thereof, for the purpose of facilitating investment where no general solicitations are made with a view to the sale of participations in the pooled fund;

33. "promoter" means,

- i. a person or company who, acting alone or in conjunction with one or more other persons, companies or a combination thereof, directly or indirectly, takes the initiative in founding, organizing or substantially reorganizing the business of an issuer, or
- ii. a person or company who, in connection with the founding, organizing or substantial reorganizing of the business of an issuer, directly or indirectly, receives in consideration of services or property, or both services and property, 10 per cent or more of any class of securities of the issuer or 10 per cent or more of the proceeds from the sale of any class of securities of a particular issue, but a person or company who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this definition if such person or company does not otherwise take part in founding, organizing, or substantially reorganizing the business;

1968

18. "promoter" means,

- ii. a person or company that, in connection with the founding, organizing or substantial reorganizing of the business or enterprise of a person or company, directly or indirectly receives in consideration of services or property, or both services and property, 10 per cent or more of any class of securities of the person or company or 10 per cent or more of the proceeds from the sale of any class of securities of a particular issue; provided that a person or company who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this definition if such person or company does not otherwise take part in founding, organizing or substantially reorganizing the business or enterprise;
- i. a person or company that, acting alone or in conjunction with one or more other persons, companies or a combination thereof, directly or indirectly takes the initiative in founding, organizing or substantially reorganizing the business or enterprise of a person or company, or

1978

34. "proxy" means a completed and executed form of proxy by means of which a security holder has appointed a person or company as his nominee to attend and act for him and on his behalf at a meeting of security holders;

34. "proxy" means a completed and executed form of proxy by means of which a security holder has appointed a person or company as his nominee to attend and act for him and on his behalf at a meeting of security holders;

1966

19. "proxy" means a completed and executed form of proxy by means of which a shareholder has appointed a person as his nominee to attend and act for him and on his behalf at a meeting of shareholders;

1966

35. "register" means register under this Act, and "registered" has a corresponding meaning;

21. "register" means register under this Act, and "registered" has a corresponding meaning;

36. "registrant" means a person or company registered or required to be registered under this Act;

22. "registrant" means a person or company registered or required to be registered under this Act;

1966

37. "regulations" means the regulations made under this Act;

24. "regulations" means the regulations made under this Act;

38. "reporting issuer" means an issuer,

- i. that has issued voting securities on or after the 1st day of May, 1967 in respect of which a prospectus was filed and a receipt therefor obtained under a predecessor of this Act or in respect of which a securities exchange take-over bid circular was filed under a predecessor of this Act,
- ii. that has filed a prospectus and obtained a receipt therefor under this Act or that has filed a securities exchange take-over bid circular under this Act,
- iii. any of whose securities have been at any time since the 15th day of September, 1979 listed and posted for trading on any stock exchange in Ontario recognized by the Commission, regardless of when such listing and posting for trading commenced,
- iv. to which the *Business Corporations Act* applies and which, for the purposes of that Act, is offering its securities to the public, or
- v. that is the company whose existence continues following the exchange of securities of a company by or for the account of such company with another company or the holders of the securities of that other company in connection with,
 - (a) a statutory amalgamation or arrangement; or
 - (b) a statutory procedure under which one company takes title to the assets of the other company that in turn loses its existence by operation of law, or under which the existing companies merge into a new company,
 where one of the amalgamating or merged companies or the continuing company has been a reporting issuer for at least twelve months;

1. (10) Subparagraph W of paragraph 38 of the said subsection 1(1) is repealed and the following substituted therefor:

iv. to which the *Business Corporations Act* applies or applied at any time after the 8th day of December, 1980 and which, for the purposes of that Act, is or was, as the case may be, offering its securities to the public so long as any of those securities in respect of which a prospectus, statement of material facts or securities exchange take-over bid circular has been filed under this Act, or any predecessor of this Act, or in respect of which a prospectus had been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, are outstanding or any securities into which such securities are converted are outstanding, or

1978

38. "reporting issuer" means an issuer,

- i. that has issued voting securities on or after the 1st day of May, 1967 in respect of which a prospectus was filed and a receipt therefor obtained under a predecessor of this Act or in respect of which a securities exchange take-over bid circular was filed under a predecessor of this Act,
- ii. that has filed a prospectus and obtained a receipt therefor under this Act or that has filed a securities exchange take-over bid circular under this Act,
- iii. any of whose securities have been at any time since the coming into force of this Act listed and posted for trading on any stock exchange in Ontario recognized by the Commission, regardless of when such listing and posting for trading commenced,
- iv. to which *The Business Corporations Act* applies and which, for the purposes of that Act, is offering its securities to the public or

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y that is the company whose existence continues following the exchange of securities of a company by or for the account of such company with another company or the holders of the securities of that other company in connection with.

where one of the amalgamating or merged companies or the continuing company has been a reporting issuer for at least twelve months.

(a) a statutory amalgamation or arrangement, or

(b) a statutory procedure under which one company takes title to the assets of the other company that in turn loses its existence by operation of law, or under which the existing companies merge into a new company.

39. "salesman" means an individual who is employed by a dealer for the purpose of making trades in securities on behalf of the dealer;

1968-69

(5) Paragraphs 25 and 26 of subsection 1 of the said 1966, c. 112, section 1 are repealed and the following substituted therefor: (a) 25.

25. "salesman" means an individual who is employed by a dealer for the purpose of making trades in securities on behalf of such dealer.

1966

25. "salesman" means an individual registered as a salesman under this Act;

40. "security" includes,

- i. any document, instrument or writing commonly known as security,
- ii. any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company,
- iii. any document constituting evidence of an interest in an association of legatees or heirs,
- iv. any document constituting evidence of an option, subscription or other interest in or to a security, of indebtedness, share, stock, unit, unit certificate, participation certificate, certificate of share or interest, preorganization certificate or subscription other than a contract of insurance issued by an insurance company licensed under the *Insurance Act* and an evidence of deposit issued by a bank to which the *Bank Act* (Canada) applies or by a loan corporation or trust company registered under the *Loan and Trust Corporations Act*,
- v. any agreement under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets, except a contract issued by an insurance company licensed under the *Insurance Act* which provides for payment at maturity of an amount not less than three quarters of the premiums paid by the purchaser for a benefit payable at maturity,
- vi. any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company,
- vii. any certificate of share or interest in a trust, estate or association,
- ix. any profit-sharing agreement or certificate,
- x. any certificate of interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate,
- xi. any oil or natural gas royalties or leases or fractional or other interest therein,
- xii. any collateral trust certificate,
- xiii. any income or annuity contract not issued by an insurance company or an issuer within the meaning of the *Investment Contracts Act*,
- xiv. any investment contract, other than an investment contract within the meaning of the *Investment Contracts Act*,
- xv. any document, constituting evidence of an interest in a scholarship or educational plan or trust, and
- xvi. any commodity futures contract or any commodity futures option that is not traded on a commodity futures exchange registered with or recognized by the Commission under the *Commodity Futures Act*, or the form of which is not accepted by the Director under that Act, whether any of the foregoing relate to an issuer or proposed issuer.

- xi. any oil or natural gas royalties or leases or fractional or other interest therein,
 - xii. any collateral trust certificate,
 - xiii. any income or annuity contract not issued by an insurance company or an issuer within the meaning of *The Investment Contracts Act*,
 - xiv. any investment contract, other than an investment contract within the meaning of *The Investment Contracts Act*,
 - xv. any document constituting evidence of an interest in a scholarship or educational plan or trust, and
 - xvi. any commodity futures contract or any commodity futures option that is not traded on a commodity futures exchange registered with or recognized by the Commission under *The Commodity Futures Act, 1978* or the form of which is not accepted by the Director under that Act,
- whether any of the foregoing relate to an issuer or proposed issuer;

(2) Paragraph 27 of subsection 1 of the said section 1 is ^{1966, s. 142, 1.} amended by striking out "and" at the end of subparagraph xii, ^{1966, s. 142, 1.} and by adding "and" at the end of subparagraph xiii and by inserting the following subparagraph:

xiv. any document constituting evidence of an interest in a scholarship or educational plan or trust.

1966

27. "security" includes,

i. any document, instrument or writing commonly known as a security,

ii. any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company,

iii. any document constituting evidence of an interest in an association of legatees or heirs,

iv. any document constituting evidence of an option, subscription or other interest in or to a security,

v. any bond, debenture, share, stock, note, unit, unit certificate, participation certificate, certificate of share or interest, pre-organization certificate or subscription,

vi. any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company,

vii. any certificate of share or interest in a trust, estate or association,

viii. any profit-sharing agreement or certificate,

ix. any certificate of interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate,

x. any oil or natural gas royalties or leases or fractional or other interest therein,

xi. any collateral trust certificate,

xii. any income or annuity contract not issued by an insurance company or an issuer within the meaning of *The Investment Contracts Act*, and

xiii. any investment contract, other than an investment contract within the meaning of *The Investment Contracts Act*,

whether of the foregoing relate to a person, proposed company or company, as the case may be;

1978

41 "senior officer" means,

i. the chairman or a vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a company or any other individual who performs functions for an issuer similar to those normally performed by an individual occupying any such office, and

ii. each of the five highest paid employees of an issuer, including any individual referred to in subparagraph i,

1966

29, "senior officer" means,

i. the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a company or any other individual who performs functions for the company similar to those normally performed by an individual occupying any such office, and

ii. each of the five highest paid employees of a company, including any individual referred to in subparagraph i;

41. "senior officer" means,

i. the chairman or a vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a company or any other individual who performs functions for an issuer similar to those normally performed by an individual occupying any such office, and

ii. each of the five highest paid employees of an issuer, including any individual referred to in subparagraph i;

42 "trade" or "trading" includes,

- i. any sale or disposition of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise, but does not include a purchase of a security or, except as provided in subparagraph iv, a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a *bona fide* debt,
- ii. any participation as a floor trader in any transaction in a security upon the floor of any stock exchange,
- iii. any receipt by a registrant of an order to buy or sell a security,
- iv. any transfer, pledge or encumbrancing of securities of an issuer from the holdings of any person or company or combination of persons or companies described in subparagraph iii of paragraph 11 for the purpose of giving collateral for a *bona fide* debt, and
- v. any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;

- i. any sale or disposition of a security for valuable consideration, whether the terms of payment be on margin, instalment or other wise, but does not include a purchase of a security or, except as provided in subparagraph iv, a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a *bona fide* debt,
- ii. any participation as a floor trader in any transaction in a security upon the floor of any stock exchange,
- iii. any receipt by a registrant of an order to buy or sell a security,
- iv. any transfer, pledge or encumbrancing of securities of an issuer from the holdings of any person or company or combination of persons or companies described in subparagraph iii of paragraph 11 for the purpose of giving collateral for a *bona fide* debt, and
- v. any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;

1966

31. "trade" or "trading" includes,

- i. any sale or disposition of or other dealing in or any solicitation in respect of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise, or any attempt to do one of the foregoing;
- ii. any participation as a floor trader in any transaction in a security upon the floor of any stock exchange;
- iii. any receipt by a person or company registered for trading in securities under this Act of an order to buy or sell a security, and
- iv. any act, advertisement, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;

1978

43. "underwriter" means a person or company who, as principal, agrees to purchase securities with a view to distribution or who, as agent, offers for sale or sells securities in connection with a distribution and includes a person or company who has a direct or indirect participation in any such distribution, but does not include,

- i. a person or company whose interest in the transaction is limited to receiving the usual and customary distributor's or seller's commission payable by an underwriter or issuer,
- ii. a mutual fund that, under the laws of the jurisdiction to which it is subject, accepts its shares or units for surrender and resells them,
- iii. a company that, under the laws of the jurisdiction to which it is subject, purchases its shares and resells them, or
- iv. a bank to which the *Bank Act* (Canada) applies with respect to the securities described in subsection 34(2) and to such banking transactions as are designated by the regulations;

1971

1 (4) Paragraph 25 of subsection 1 of the said section 1 is amended by striking out "primary" in the fifth line, so that the paragraph shall read as follows:

25. "underwriter" means a person or company who, as principal, purchases securities from a person or company with a view to, or who as agent for a person or company offers for sale or sells securities in connection with, a distribution to the public of such securities, and includes a person or company who has a direct or indirect participation in any such distribution, but does not include a person or company whose interest in the transaction is limited to receiving the usual and customary distributors' or sellers' commission payable by an underwriter.

1966

32. "underwriter" means a person or company who, as principal, purchases securities from a person or company with a view to, or who as agent for a person or company, offers for sale or sells securities in connection with, a primary distribution to the public of such securities, and includes a person or company who has a direct or indirect participation in any such distribution, but does not include a person or company whose interest in the transaction is limited to receiving the usual and customary distributors' or sellers' commission payable by an underwriter. R.S.O. 1960, c. 363, s. 1; 1962-63, c. 131, s. 1, *amended*.

1978

44. "voting security" means any security other than a debt security of an issuer carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing. 1978, c. 47, s. 1(1); 1979, c. 86, s. 1.

44. "voting security" means any security other than a debt security of an issuer carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing.

(2) Affiliated companies.—A company shall be deemed to be an affiliate of another company if one of them is the subsidiary of the other or if both are subsidiaries of the same company or if each of them is controlled by the same person or company.

(3) Controlled companies.—A company shall be deemed to be controlled by another person or company or by two or more companies if,

- (a) voting securities of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company or by or for the benefit of the other companies; and
- (b) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of the first-mentioned company.

(4) Subsidiary companies.—A company shall be deemed to be a subsidiary of another company if,

- (a) it is controlled by,
 - (i) that other, or
 - (ii) that other and one or more companies each of which is controlled by that other, or
 - (iii) two or more companies each of which is controlled by that other; or
- (b) it is a subsidiary of a company that is that other's subsidiary.

(5) Beneficial ownership of securities.—A person shall be deemed to own beneficially securities beneficially owned by a company controlled by him or by an affiliate of such company.

(11) Subsections 1 (2), (3), (4) and (5) of the said Act are repealed and the following substituted therefor:

(2) An issuer shall be deemed to be an affiliate of another issuer if one of them is the subsidiary of the other or if both are subsidiaries of the same issuer or if each of them is controlled by the same person or company.

(3) An issuer shall be deemed to be controlled by a person or company or by two or more persons or companies if,

- (a) voting securities of the issuer carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the person or company or by or for the benefit of the persons or companies; and

(b) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of the issuer.

(4) An issuer shall be deemed to be a subsidiary of another issuer if,

- (a) it is controlled by,
 - (i) that other, or
 - (ii) that other and one or more issuers each of which is controlled by that other, or
 - (iii) two or more issuers each of which is controlled by that other; or
- (b) it is a subsidiary of an issuer that is that other's subsidiary.

(5) A person shall be deemed to own beneficially securities beneficially owned by an issuer controlled by him or by an affiliate of such issuer

(2) A company shall be deemed to be an affiliate of another company if one of them is the subsidiary of the other or if both are subsidiaries of the same company or if each of them is controlled by the same person or company.

(3) A company shall be deemed to be controlled by another person or company or by two or more companies if,

(a) voting securities of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company or by or for the benefit of the other companies; and

(b) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of the first-mentioned company.

1966

(3) A company shall be deemed to be controlled by another person or company or by two or more companies if,

(a) equity shares of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or company or by or for the benefit of such other companies; and

(b) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned company.

(4) A company shall be deemed to be a subsidiary of another company if,

(a) it is controlled by,

(i) that other, or

(ii) that other and one or more companies each of which is controlled by that other, or

(iii) two or more companies each of which is controlled by that other; or

(b) it is a subsidiary of a company that is that other's subsidiary.

(5) A person shall be deemed to own beneficially securities beneficially owned by a company controlled by him or by an affiliate of such company.

(6) A company shall be deemed to own beneficially securities beneficially owned by its affiliates.

(6) A person shall be deemed to own beneficially securities beneficially owned by a company controlled by him or by an affiliate of such company.

(7) A company shall be deemed to own beneficially securities beneficially owned by its affiliates. *New.*

(7) Every management company and every distribution company of a mutual fund that is a reporting issuer and every insider of such management company or distribution company shall be deemed to be an insider of the mutual fund.

(8) Where an issuer becomes an insider of a reporting issuer, every director or senior officer of the issuer shall be deemed to have been an insider of the reporting issuer for the previous six months or for such shorter period that he was a director or senior officer of the issuer.

(9) Where a reporting issuer becomes an insider of any other reporting issuer, every director or senior officer of the second-mentioned reporting issuer shall be deemed to have been an insider of the first-mentioned reporting issuer for the previous six months or for such shorter period that he was a director or senior officer of the second-mentioned reporting issuer. R.S.O. 1970, c. 426, s. 1, *amended*.

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(6) *Idem.*—A company shall be deemed to own beneficially securities beneficially owned by its affiliates.

(7) **Insider of mutual fund.**—Every management company and every distribution company of a mutual fund that is a reporting issuer and every insider of such management company or distribution company shall be deemed to be an insider of the mutual fund.

(8) **Issuer as insider of reporting issuer.**—Where an issuer becomes an insider of a reporting issuer, every director or senior officer of the issuer shall be deemed to have been an insider of the reporting issuer for the previous six months or for such shorter period that he was a director or senior officer of the issuer.

(9) **Reporting issuer as insider or other reporting issuer.**—Where a reporting issuer becomes an insider of any other reporting issuer, every director or senior officer of the second-mentioned reporting issuer shall be deemed to have been an insider of the first-mentioned reporting issuer for the previous six months or for such shorter period that he was a director or senior officer of the second-mentioned reporting issuer. 1978, c. 47, s. 1(2.9).

PART I

THE COMMISSION

2.(1) Commission.—The Commission is continued and is responsible for the administration of this Act.

(2) Appointment.—The Commission shall be composed of a Chairman and not more than eight other members, appointed by the Lieutenant Governor in Council, one of whom shall be designated as Vice-Chairman.

(3) Quorum.—Two members of the Commission constitute a quorum. 1978, c.47, s.2.

1978

PART I

THE COMMISSION

2. (1) The Commission is continued and is responsible for the administration of this Act.

1982

2. Subsections 2 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) The Commission shall be composed of a Chairman and not more than ten or less than eight other members, appointed by the Lieutenant Governor in Council, one of whom may be designated as Deputy Chairman and two of whom may be designated as Vice-Chairmen.

(3) Two members of the Commission constitute a quorum and the Commission has and shall be deemed always to have had the authority to sit in two or more panels simultaneously so long as a quorum of the Commission is present on each panel.

1978

(2) The Commission shall be composed of a Chairman and not more than eight other members, appointed by the Lieutenant Governor in Council, one of whom shall be designated as Vice-Chairman.

(3) Two members of the Commission constitute a quorum R.S.O. 1970, c.426, s.2, *amended*.

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1971

2. Subsection 1 of section 2 of *The Securities Act* is amended by striking out "five" in the third line and inserting in lieu thereof "seven", so that the subsection shall read as follows:

- (1) The Commission, which shall be responsible for the administration of this Act, shall be composed of a Chairman and not more than seven other members, one of whom shall be designated as Vice-Chairman.

1970

2.—(1) The Commission, which is responsible for the administration of this Act, shall be composed of a Chairman and not more than five other members, one of whom shall be designated as Vice-Chairman. 1966, c. 142, s. 2 (1); 1968, c. 123, s. 2.

- (2) The members of the Commission shall be appointed by the Lieutenant Governor in Council.

(3) Two members of the Commission constitute a quorum. 1966, c. 142, s. 2 (2, 3).

1968

2. Subsection 1 of section 2 of *The Securities Act, 1966* is amended by striking out "four" in the third line and inserting in lieu thereof "five", so that the subsection shall read as follows:

- (1) The Commission, which shall be responsible for the administration of this Act, shall be composed of a Chairman and not more than five other members, one of whom shall be designated as Vice-Chairman.

1966

2.—(1) The Commission, which shall be responsible for the administration of this Act, shall be composed of a Chairman and not more than four other members, one of whom shall be designated as Vice-Chairman.

- (2) The members of the Commission shall be appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 363, s. 2 (1); 1965, c. 120, s. 1 (1), *amended*.

(3) Two members of the Commission constitute a quorum. 1962-63, c. 131, s. 2.

1979

(4) **Hearings in conjunction with other securities commissions.**—The Commission may hold hearings in or outside Ontario in conjunction with any other body empowered by statute to administer or regulate trading in securities and may consult with that other body during the course of a hearing. 1979, c. 86, s. 2.

2. Section 2 of the said Act is amended by adding thereto the following subsection:

(4) The Commission may hold hearings in or outside Ontario in conjunction with any other body empowered by statute to administer or regulate trading in securities and may consult with that other body during the course of a hearing.

1982

3.(1) **Chairman and members.**—The Chairman shall be the chief executive officer of the Commission and shall devote his full time to the work of the Commission, and the other members shall devote such time as may be necessary for the due performance of their duties as members of the Commission.

(2) **Delegation of powers.**—The Chairman, Vice-Chairman or any member of the Commission may exercise the powers and perform the duties vested in or imposed upon the Commission by the regulations as are assigned to him by the Commission.

(3) **Eligibility to sit on hearing.**—Where the person who exercises the powers and performs the duties vested in the Commission by sections 11 to 17 pursuant to an assignment under subsection (2), receives the report of an investigation ordered under section 11 and on the basis of such report issues an *ex parte* order or a direction that proceedings be instituted by the Commission under section 26, 69, 123 or 124 such person shall not sit on the hearing required to be held by the Commission except with the written consent of the party directly affected by the proceedings.

(4) **Review.**—Every decision made pursuant to an assignment under subsection (2) is subject to review by the Commission under section 8 in the same manner as if it had been made by the Director, and the person who made the decision shall not sit on the review thereof by the Commission. 1978, c.47, s.3.

3. Subsection 3 (2) of the said Act is amended by striking out "Vice-Chairman" in the first line and inserting in lieu thereof "the Deputy Chairman of the Commission".

1978

(1) The Commission shall be the chief executive officer of the Commission and shall devote his full time to the work of the Commission, and the other members shall devote such time as may be necessary for the due performance of their duties as members of the Commission.

(2) The Chairman, Vice Chairman or any member of the Commission may exercise the powers and shall perform such duties as are assigned to him or imposed upon him by the Act or the regulations of the Commission.

(3) Where the person who exercises the power and performs the duties vested in the Commission by sections 11 to 17 pursuant to an assignment under subsection 2, receives the report of an investigation ordered under section 11 and on the basis of such report issues an *ex parte* order or a direction that proceedings be instituted by the Commission under section 26, 69, 123 or 124 such person shall not sit on the hearing required to be held by the Commission except with the written consent of the party directly affected by the proceedings.

(4) Every decision made pursuant to an assignment under subsection 2 is subject to review by the Commission under section 8 in the same manner as if it had been made by the Director, and the person who made the decision shall not sit on the hearing and review thereof by the Commission. R.S.O. 1970, c.426, s.3, amended.

1968

3. Section 3 of *The Securities Act, 1966* is amended by 1968, c. 112, s. 3, adding thereto the following subsections:

(2) The Chairman, Vice-Chairman or any member of ^{delegation} the Commission may exercise the powers and shall ^{Commission} perform such duties vested in or imposed upon the ^{powers and} Commission by this Act or the regulations as are assigned to him by the Commission, except those referred to in sections 21 to 28.

(3) Every direction, decision, order or ruling made ^{Review} pursuant to an assignment under subsection 2 is subject to review by the Commission under section 28 in the same manner as if it had been made by the Director, and the person who made the direction, decision, order or ruling shall not sit on the hearing and review thereof by the Commission.

1966

3. The Chairman, who shall be the chief executive officer of the Commission, shall devote his full time to the work of the Commission, and the other members shall devote such time as may be necessary for the due performance of their duties as members of the Commission. 1965, c. 120, s. 1 (2), *amended*.

PART II

FINANCIAL DISCLOSURE ADVISORY BOARD

4(1) Financial Disclosure Advisory Board.—The Financial Disclosure Advisory Board established under *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970, is continued and shall be composed of not more than five members appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may designate one of the members to be chairman.

(2) Meetings.—The Financial Disclosure Advisory Board shall meet at the call of the Commission.

(3) Duties.—The Financial Disclosure Advisory Board shall, when requested by the Commission, consult with and advise the Commission concerning the financial disclosure requirements of this Act and the regulations.

(4) Remuneration.—The members of The Financial Disclosure Advisory Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a *per diem* allowance to be payable to each member, and every member is entitled to his reasonable and necessary expenses, as certified by the chairman, for attending at meetings and transacting the business of the Board. 1978, c. 47, s. 4.

1978

4. (1) The Financial Disclosure Advisory Board established under *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970, is continued and shall be composed of not more than five members appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may designate one of the members to be chairman.

(2) The Financial Disclosure Advisory Board shall meet at the call of the Commission.

(3) The Financial Disclosure Advisory Board shall, when requested by the Commission, consult with and advise the Commission concerning the financial disclosure requirements of this Act and the regulations.

(4) The members of The Financial Disclosure Advisory Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a *per diem* allowance to be payable to each member, and every member is entitled to his reasonable and necessary expenses, as certified by the chairman, for attending at meetings and transacting the business of the Board. R.S.O. 1970, c. 426, s. 146, *amended*.

1970

146.—(1) The Financial Disclosure Advisory Board is continued, and shall be composed of not more than five members who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure, and the Lieutenant Governor in Council may designate one of the members to be chairman of the Advisory Board. 1966, c. 142, s. 143 (1), *amended*.

(2) The Advisory Board shall meet at the call of the Commission.

(3) The Advisory Board shall, when requested by the Commission, consult with and advise the Commission concerning the financial disclosure requirements of this Act and the regulations.

(4) The members of the Advisory Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a *per diem* allowance to be payable to each member, and every member is entitled to his reasonable and necessary expenses, as certified by the chairman, for attending at meetings and in the transaction of the business of the Advisory Board. 1966, c. 142, s. 143 (2-4).

1966

143.—(1) There shall be a board of not more than five members to be known as The Financial Disclosure Advisory Board, the members of which shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure, and the Lieutenant Governor in Council may designate one of the members to be chairman of the Advisory Board.

(2) The Advisory Board shall meet at the call of the Commission.

(3) The Advisory Board shall, when requested by the Commission, consult with and advise the Commission concerning the financial disclosure requirements of this Act and the regulations.

(4) The members of the Advisory Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a *per diem* allowance to be payable to each member, and every member is entitled to his reasonable and necessary expenses, as certified by the chairman, for attending at meetings and in the transaction of the business of the Advisory Board. *New.*

1982

APPPOINTMENT OF EXPERTS

5. (1) Appointment of experts.—The Commission may appoint one or more experts to assist the Commission in such manner as it may consider expedient.

(2) Submissions to experts.—The Commission may submit any ~~apparent, prospective financial statement, report or other document~~ to one or more experts appointed under subsection (1) for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and subsections 11(3) and (4) apply with necessary modifications.

(3) Payment of experts.—An expert appointed under subsection (1) shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. 1978, c. 47, s. 5.

4. Subsection 5 (2) of the said Act is repealed and the following substituted therefor

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection (1) for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in a person appointed to make an investigation under section 11 and subsections 11 (3) and (4) apply with necessary modifications.

5.—(1) The Commission may appoint one or more experts to assist the Commission in such manner as it may consider expedient.

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection 1 for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and subsections 3 and 4 of section 11 apply *mutatis mutandis*.

(3) An expert appointed under subsection 1 shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. R.S.O. 1970, c. 426, s. 13.

1970

13.—(1) The Commission may appoint one or more experts to assist the Commission in such manner as it may consider expedient.

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection 1 for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and subsections 3 and 4 of section 21 apply *mutatis mutandis*.

(3) An expert appointed under subsection 1 shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. 1966, c. 142, s. 13.

1966

13.—(1) The Commission may appoint one or more experts to assist the Commission in such manner as it may deem expedient. R.S.O. 1960, c. 363, s. 13 (1).

" (2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection 1 for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and subsections 3 and 4 of section 21 apply *mutatis mutandis*. R.S.O. 1960, c. 363, s. 13 (2), *amended*.

(3) An expert appointed under subsection 1 shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. R.S.O. 1960, c. 363, s. 13 (3).

1978

PART IV
THE DIRECTOR

6. The Director may exercise the powers and shall perform the duties vested in or imposed upon him by this Act, and he may exercise the powers and shall perform the duties vested in or imposed upon the Commission by this Act or the regulations that are assigned to him by the Commission except those referred to in section 8 and sections 11 to 17 and, subject to the direction of the Commission, he is the chief administrative officer of the Commission. R.S.O. 1970, c. 426, s. 4.

1966

4. The Director or any Deputy Director may exercise the powers and shall perform the duties vested in or imposed upon him by this Act, and he may exercise the powers and shall perform the duties vested in or imposed upon the Commission by this Act or the regulations that are assigned to him by the Commission except those referred to in sections 21 to 28, and, subject to the direction of the Commission, he shall be the chief administrative officer of the Commission. 1962-63, c. 131, s. 3, *part, amended*.

6. Director. - The Director may exercise the powers and shall perform the duties vested in or imposed upon him by this Act, and he may exercise the powers and shall perform the duties vested in or imposed upon the Commission by this Act or the regulations that are assigned to him by the Commission except those referred to in section 8 and sections 11 to 17 and, subject to the direction of the Commission, he is the chief administrative officer of the Commission. 1978, c. 17, s. 6.

1978

7. Where,

- (a) an application for registration or renewal of registration is abandoned; or
- (b) a preliminary prospectus or prospectus is withdrawn,
- the Director may, upon the application of the person or company who made the application or filed the preliminary prospectus or prospectus, recommend to the Treasurer of Ontario that a refund of the fee paid on the making of the application or the filing of the preliminary prospectus or prospectus or such part thereof as he considers fair and reasonable be made, and the Treasurer may make such refund from the Consolidated Revenue Fund. R.S.O. 1970, c. 426, s. 17

1966

17. Where an application for a registration is refused, a registration is cancelled or a receipt for a prospectus is not obtained, the Director may recommend to the Treasurer of Ontario that a refund of the fee or of such part thereof as he deems fair and reasonable be made, and the Treasurer may make such refund from the Consolidated Revenue Fund. R.S.O. 1960, c. 363, s. 17 (2), *amended*.

7. Refunds. — Where,

- (a) an application for registration or renewal of registration is abandoned; or
- (b) a preliminary prospectus or prospectus is withdrawn,
- the Director may, upon the application of the person or company who made the application or filed the preliminary prospectus or prospectus, recommend to the Treasurer of Ontario that a refund of the fee paid on the making of the application or the filing of the preliminary prospectus or prospectus or such part thereof as he considers fair and reasonable be made, and the Treasurer may make such refund from the Consolidated Revenue Fund. 1978, c. 47, s. 7.

PART V

ADMINISTRATIVE PROCEEDINGS, REVIEWS AND APPEALS

8. (1) Notification of decision. — The Director shall forthwith notify the Commission of every decision refusing registration under section 25 or refusing to issue a receipt for a prospectus under section 60 and the Commission may within thirty days of the decision notify the Director and any person or company directly affected of its intention to convene a hearing to review the decision.

(2) Review of Director's decisions. — Any person or company directly affected by a decision of the Director may, by notice in writing sent by registered mail to the Commission within thirty days after the mailing of the notice of the decision, request and be entitled to a hearing and review thereof by the Commission.

(3) Power on review. — Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper.

(4) Stay. — Notwithstanding that a person or company requests a hearing and review under subsection (2) of this section or subsection 3(4), the decision under review takes effect immediately, but the Commission may grant a stay until disposition of the hearing and review.

1978, c. 47, s. 8.

1978

8. (1) The Director shall forthwith notify the Commission of every decision refusing registration under section 25 or refusing to issue a receipt for a prospectus under section 60 and the Commission may within thirty days of the decision notify the Director and any person or company directly affected of its intention to convene a hearing to review the decision. *New.*

(2) Any person or company directly affected by a decision of the Director may, by notice in writing sent by registered mail to the Commission within thirty days after the mailing of the notice of the decision, request and be entitled to a hearing and review thereof by the Commission.

(3) Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper. R.S.O. 1970, c. 426, s. 28; 1971, c. 31, s. 5.

(4) Notwithstanding that a person or company requests a hearing and review under subsection 2 of this section or subsection 4 of section 3, the decision under review takes effect immediately, but the Commission may grant a stay until disposition of the hearing and review. 1973, c. 11, s. 1.

1973

1. Section 28 of *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 31, section 5, is further amended by adding thereto the following subsection:

(3) Notwithstanding that a person or company requests a hearing and review thereof under subsection 1 of this section or subsection 3 of section 3, the decision, order or ruling under review takes effect immediately, but the Commission may grant a stay until disposition of the hearing and review.

1971

5. Subsection 1 of section 28 of *The Securities Act* is amended by striking out "Director" in the third line and inserting in lieu thereof "Commission", so that the subsection shall read as follows:

- (1) Any person or company primarily affected by a direction, decision, order or ruling of the Director may, by notice in writing sent by registered mail to the Commission within thirty days after the mailing of the notice of the direction, decision, order or ruling, request and be entitled to a hearing and review thereof by the Commission.

1970

28.—(1) Any person or company primarily affected by a direction, decision, order or ruling of the Director may, by notice in writing sent by registered mail to the Director within thirty days after the mailing of the notice of the direction, decision, order or ruling, request and be entitled to a hearing and review thereof by the Commission. 1966, c. 142, s. 28 (1), 1968, c. 123, s. 10.

- (2) Upon a hearing and review, the Commission may by order confirm the direction, decision, order or ruling under review or make such other direction, decision, order or ruling as the Commission considers proper. 1966, c. 142, s. 28 (2).

1968

10. Subsection 1 of section 28 of *The Securities Act, 1966* is amended by striking out "Registrar" in the third line and inserting in lieu thereof "Director".

1966

28.—(1) Any person or company primarily affected by a direction, decision, order or ruling of the Director may, by notice in writing sent by registered mail to the Registrar within thirty days after the mailing of the notice of the direction, decision, order or ruling, request and be entitled to a hearing and review thereof by the Commission.

(2) Upon a hearing and review, the Commission may by order confirm the direction, decision, order or ruling under review or make such other direction, decision, order or ruling as the Commission deems proper. R.S.O. 1960, c. 363, s. 29 (1, 4), *amended*.

1978

9.—(1) Any person or company directly affected by a decision of the Commission, other than a decision under section 73, may appeal to the Supreme Court.

(2) Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Commission or the Divisional Court may grant a stay until disposition of the appeal.

(3) The Secretary shall certify to the Registrar of the Supreme Court,

- (a) the decision that has been reviewed by the Commission;
- (b) the decision of the Commission, together with any statement of reasons therefor;
- (c) the record of the proceedings before the Commission; and
- (d) all written submissions to the Commission or other material that is relevant to the appeal.

(4) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

9.(1) Appeal.—Any person or company directly affected by a decision of the Commission, other than a decision under section 73, may appeal to the Divisional Court.

(2) Stay.—Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Commission or the Divisional Court may grant a stay until disposition of the appeal.

(3) Certification of documents.—The Secretary shall certify to the Registrar of the Supreme Court,

- (a) the decision that has been reviewed by the Commission;
- (b) the decision of the Commission, together with any statement of reasons therefor;
- (c) the record of the proceedings before the Commission; and
- (d) all written submissions to the Commission or other material that is relevant to the appeal.

(4) Minister entitled to appear.—The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

(5) Powers of court on appeal.—Where an appeal is taken under this section, the court may by its order direct the Commission to make such decision or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such decision or do such act accordingly.

(6) Further decisions.—Notwithstanding an order of the court on an appeal, the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section. 1978, c. 47, s. 9.

(5) Where an appeal is taken under this section, the court may by its order direct the Commission to make such decision or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such decision or do such act accordingly.

(6) Notwithstanding an order of the court on an appeal, the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section. 1973, c. 11, s. 2, *amended*.

1973

2. Section 29 of the said Act is repealed and the following substituted therefor:

29.--(1) Any person or company primarily affected by a direction, decision, order or ruling of the Commission, other than a ruling under section 59, may appeal to the Supreme Court.

(2) Notwithstanding that an appeal is taken under this section, the direction, decision, order or ruling appealed from takes effect immediately, but the Commission or the Divisional Court may grant a stay until disposition of the appeal.

(3) The Director shall certify to the Registrar of the Supreme Court,

(a) the direction, decision, order or ruling that has been reviewed by the Commission, or the application, complaint, reference or other document, if any, by which the proceedings were commenced,

- (b) the notice of any hearing or hearing and review;
- (c) any intermediate direction, decision, order or ruling of the Commission;
- (d) the record of the hearing or the hearing and review; and
- (e) the direction, decision, order or ruling of the Commission and the reasons therefor.

(4) The Minister is entitled to be heard by counsel or otherwise, upon the argument of an appeal under this section.

(5) Where an appeal is taken under this section, the court may by its order direct the Commission to make such direction, decision, order or ruling or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such direction, decision, order or ruling or do such act accordingly.

(6) Notwithstanding an order of the court on an appeal, the Commission has power to make any further direction, decision, order or ruling upon new material or where there is a material change in the circumstances, and every such direction, decision, order or ruling is subject to this section.

1970

29.—(1) Any person or company primarily affected by a direction, decision, order or ruling of the Commission, other than a ruling under section 59, may appeal to the Court of Appeal. 1966, c. 142, s. 29 (1).

(2) Every appeal shall be by notice of motion sent by registered mail to the Director within thirty days after the making of the notice of the order, and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, provided that the Rules Committee may vary or amend such practice and procedure or may prescribe the practice and procedure that shall be applicable to appeals taken under this Act. 1966, c. 142, s. 29 (2); 1968, c. 123, s. 11 (1).

(3) The Director shall certify to the Registrar of the Supreme Court,

- (a) the direction, decision, order or ruling that has been reviewed by the Commission;
- (b) the order of the Commission, together with any statement of reasons therefor;
- (c) the record of the review; and
- (d) all written submissions to the Commission or other material that are relevant to the appeal. 1966, c. 142, s. 29 (3); 1968, c. 123, s. 11 (2)

(4) The Minister may appoint counsel to assist the Court of Appeal upon the hearing of any appeal under this section.

(5) Where an appeal is taken under this section, the Court of Appeal may by its order direct the Commission to make such direction, decision, order or ruling or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the Court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such direction, decision, order or ruling or do such act accordingly.

(6) Notwithstanding an order of the Court of Appeal, the Commission has power to make any further direction, decision, order or ruling upon new material or where there is a material change in the circumstances, and every such direction, decision, order or ruling is subject to this section. 1966, c. 142, s. 29 (4-6); *amended*

1968

11.—(1) Subsection 2 of section 29 of *The Securities Act, 1966* is amended by striking out "Registrar" in the second line and inserting in lieu thereof "Director".

(2) Subsection 3 of the said section 29 is amended by striking out "Registrar" where it occurs the first time in the first line and inserting in lieu thereof "Director".

1966

29.—(1) Any person or company primarily affected by a direction, decision, order or ruling of the Commission, other than a ruling under section 59, may appeal to the Court of Appeal.

(2) Every appeal shall be by notice of motion sent by registered mail to the Registrar within thirty days after the mailing of the notice of the order, and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, provided that the Rules Committee may vary or amend such practice and procedure or may prescribe the practice and procedure that shall be applicable to appeals taken under this Act.

(3) The Registrar shall certify to the Registrar of the Supreme Court,

- (a) the direction, decision, order or ruling that has been reviewed by the Commission;
- (b) the order of the Commission, together with any statement of reasons therefor;
- (c) the record of the review; and
- (d) all written submissions to the Commission or other material that are relevant to the appeal.

(4) The Minister may appoint counsel to assist the Court of Appeal upon the hearing of any appeal under this section. R.S.O. 1960, c. 363, s. 30, *amended*.

(5) Where an appeal is taken under this section, the Court of Appeal may by its order direct the Commission to make such direction, decision, order or ruling or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the Court deems proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such direction, decision, order or ruling or do such act accordingly. R.S.O. 1960, c. 363, s. 31, *amended*.

(6) Notwithstanding an order of the Court of Appeal, the Commission has power to make any further direction, decision, order or ruling upon new material or where there is a material change in the circumstances, and every such direction, decision, order or ruling is subject to this section. R.S.O. 1960, c. 363, s. 32, *amended*.

1978

10.(1) Secretary.— There shall be a Secretary to the Commission who may,

- (a) accept service of all notices or other documents on behalf of the Commission;
 - (b) when authorized by the Commission, sign any decision made by the Commission as a result of a hearing;
 - (c) certify under his hand any decision made by the Commission or any document, record or thing used in connection with any hearing by the Commission where certification is required for a purpose other than that stated in subsection 9(3); and
 - (d) exercise such other powers as are vested in him by this Act or the regulations and perform such other duties as are imposed upon him by this Act or the regulations or by the Commission.
- (2) Acting Secretary.— Where the Secretary is absent for any reason, the Commission may designate another individual to act in the capacity of Secretary and the individual designated may exercise all the powers vested in the Secretary by this Act or the regulations.
- (3) Certification by Secretary.— A certificate purporting to be signed by the Secretary is, without proof of the office or signature certifying, admissible in evidence, so far as is relevant, for all purposes in any action, proceeding or prosecution. 1978, c. 47, s. 10.

10. (1) There shall be a Secretary to the Commission who may,

- (a) accept service of all notices or other documents on behalf of the Commission;
- (b) when authorized by the Commission, sign any decision made by the Commission as a result of a hearing;
- (c) certify under his hand any decision made by the Commission or any document, record or thing used in connection with any hearing by the Commission where certification is required for a purpose other than that stated in subsection 3 of section 9; and
- (d) exercise such other powers as are vested in him by this Act or the regulations and perform such other duties as are imposed upon him by this Act or the regulations or by the Commission.

(2) Where the Secretary is absent for any reason, the Commission may designate another individual to act in the capacity of Secretary and the individual designated may exercise all the powers vested in the Secretary by this Act or the regulations.

(3) A certificate purporting to be signed by the Secretary is, without proof of the office or signature certifying, admissible in evidence, so far as is relevant, for all purposes in any action, proceeding or prosecution. *N/a*.

PART VI INVESTIGATIONS

11.(1) Investigation order.—Where upon a statement made under oath it appears probable to the Commission that any person or company has,

- (a) contravened any of the provisions of this Act or the regulations; or
 - (b) committed an offence under the *Criminal Code* (Canada) in connection with a trade in securities,
- The Commission may, by order, appoint any person to make such investigation as it deems expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation.

(2) Investigation order.—The Commission may, by order, appoint any person to make such investigation as it considers expedient for the due administration of this Act or into any matter relating to trading in securities, and in such order shall determine and prescribe the scope of the investigation.

(3) Scope of investigation.—For the purposes of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

- (a) the affairs of the person or company in respect of whom the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the person or company and any property, assets or things owned, acquired or alienated in whole or in part by the person or company or by any person or company acting on behalf of or as agent for the person or company; and
- (b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the person or company and the relationship that may at any time exist or have existed between the person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

5.—(1) Clause 11 (1) (b) of the said Act is amended by striking out "trade in" the second line and inserting in lieu thereof "transaction relating to".

(2) Clause 11 (3) (b) of the said Act is amended by striking out "stock" in the tenth line and in the twelfth line and inserting in lieu thereof in each instance "securities".

1978

11.—(1) Where upon a statement made under oath it appears probable to the Commission that any person or company has,

- (a) contravened any of the provisions of this Act or the regulations; or

(b) committed an offence under the *Criminal Code* (Canada) in connection with a trade in securities,

the Commission may, by order, appoint any person to make such investigation as it deems expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation.

(2) The Commission may, by order, appoint any person to make such investigation as it deems expedient for the due administration of this Act or into any matter relating to trading in securities, and in such order shall determine and prescribe the scope of the investigation

(3) For the purposes of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

- (a) the affairs of the person or company in respect of whom the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the person or company and any property, assets or things owned, acquired or alienated in whole or in part by the person or company or by any person or company acting on behalf of or as agent for the person or company; and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the person or company and the relationship that may at any time exist or have existed between the person or company and any other person or company by reason of investments, commissions

(4) Powers to summon witnesses and require production. — The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court provided that no provision of the *Evidence Act* exempts any bank or any officer or employee thereof from the operation of this section.

(5) Counsel. — A person giving evidence at an investigation under this section may be represented by counsel.

(6) Seizure of property. — Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company whose affairs are being investigated.

(7) Inspection of seized documents. — Where any documents, records, securities or other property are seized under subsection (6), the documents, records, securities or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by the person or company to the person appointed to make the investigation.

(8) Accountants and experts. — Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated.

(9) Report of investigation. — Every person appointed under subsection (1), (2) or (8) shall provide the Commission with a full and complete report of the investigation including any transcript of evidence and material in his possession relating to the investigation. 1978, c. 47, s. 11.

promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court provided that no provision of *The Evidence Act* exempts any bank or any officer or employee thereof from the operation of this section.

(5) A person giving evidence at an investigation under this section may be represented by counsel.

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company whose affairs are being investigated.

(7) Where any documents, records, securities or other property are seized under subsection 6, the documents, records, securities or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by the person or company to the person appointed to make the investigation

(8) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated R.S.O. 1970, c. 426, s. 21 (1-8)

(9) Every person appointed under subsection 1, 2 or 8 shall provide the Commission with a full and complete report of the investigation including any transcript of evidence and material in his possession relating to the investigation. R.S.O. 1970, c. 426, s. 21 (9), *amended*.

1970

21.—(1) Where upon a statement made under oath it appears probable to the Commission that any person or company has,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) in connection with a trade in securities,

the Commission may by order appoint any person to make such investigation as it considers expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation. 1966, c. 142, s. 21 (1).

(2) The Commission may, by order, appoint any person to make such investigation as it considers expedient for the due administration of this Act or into any matter relating to trading in securities, and in such order shall determine and prescribe the scope of the investigation. 1968, c. 123, s. 8.

(3) For the purposes of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

- (a) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person or company and any property, assets or things owned, acquired or alienated in whole or in part by such person or company or by any person or company acting on behalf of or as agent for such person or company; and

- (b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person or company and the relationship that may at any time exist or have existed between such person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or

holding of stock, interlocking directorates, common control, undue influence or control or any other relationship. 1966, c. 142, s. 21 (3).

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court, and no provision of *The Evidence Act* exempts any bank or any officer or employee thereof from the operation of this section. 1966, c. 142, s. 21 (4), *amended*.

(5) A person giving evidence at an investigation under this section may be represented by counsel.

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company whose affairs are being investigated.

(7) Where any documents, records, securities or other property are seized under subsection 6, such documents, records, securities or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place.

(8) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated.

(9) Every person appointed under subsection 1, 2 or 8 shall report the result of his investigation or examination to the Commission. 1966, c. 142, s. 21 (5-9).

1968

8. Subsection 2 of section 21 of *The Securities Act, 1966* is repealed and the following substituted therefor:

- (2) The Commission may, by order, appoint any person to make such investigation as it deems expedient for the due administration of this Act or into any matter relating to trading in securities, and in such order shall determine and prescribe the scope of the investigation.

1966

21.—(1) Where upon a statement made under oath it appears probable to the Commission that any person or company has,

- (a) contravened any of the provisions of this Act or the regulations; or
(b) committed an offence under the *Criminal Code* (Canada) in connection with a trade in securities,

the Commission may by order appoint any person to make such investigation as it deems expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation. R.S.O. 1960, c. 363, s. 21 (1).

(2) The Commission may, with the consent of the Minister, by order appoint any person to make such investigation as it deems expedient for the due administration of this Act or into any matter relating to a trade in securities, and in such order shall determine and prescribe the scope of the investigation. 1962-63, c. 131, s. 11 (1), *amended*.

(3) For the purposes of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

- (a) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications,

negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person or company and any property, assets or things owned, acquired or alienated in whole or in part by such person or company or by any person or company acting on behalf of or as agent for such person or company; and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person or company and the relationship that may at any time exist or have existed between such person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship. R.S.O. 1960, c. 363, s. 21 (2); 1962-63, c. 131, s. 11 (2), *amended*.

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court, provided that no provision of *The Evidence Act* exempts any bank or any officer or employee thereof from the operation of this section. R.S.O. 1960, c. 363, s. 21 (3); 1962-63, c. 131, s. 11 (3, 4), *amended*.

(5) A person giving evidence at an investigation under this section may be represented by counsel. *New.*

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company whose affairs are being investigated. R.S.O. 1960, c. 363, s. 21 (4), *amended*.

(7) Where any documents, records, securities or other property are seized under subsection 6, such documents, records, securities or other property will be made available for

inspection and copying by the person or company from whom seized at a mutually convenient time and place. *Vide*

(8) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated.

(9) Every person appointed under subsection 1, 2 or 8 shall report the result of his investigation or examination to the Commission. R.S.O. 1960, c. 363, s. 21 (5, 6), *amended*.

1978

12. Report to Minister.— Where upon the report of an investigation made under section 11 it appears to the Commission that any person or company may have,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to securities,

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript of evidence and any material in the possession of the Commission relating thereto, to the Minister. 1978, c. 47, s. 12.

12. Where upon the report of an investigation made under section 11 it appears to the Commission that any person or company may have,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to securities,

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript of evidence and any material in the possession of the Commission relating thereto, to the Minister. R.S.O. 1970, c. 426, s. 22.

1966

22. Where upon the report of an investigation made under section 21 it appears to the Commission that any person or company may have,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to securities,

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript of evidence and any material in the possession of the Commission relating thereto, to the Minister. R.S.O. 1960, c. 363, s. 22, *amended*.

13. Investigation by order of Minister. — Notwithstanding section 11, the Minister may, by order, appoint any person to make such investigation as the Minister considers expedient for the due administration of this Act or into any matter relating to trading in securities, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights, and privileges as a person appointed under section 11. 1978, c. 47, s. 13.

1982

6. Section 13 of the said Act is amended by adding thereto the following subsection:

(2) A person giving evidence at an investigation made under subsection (1) may be represented by counsel.

1978

13. Notwithstanding section 11, the Minister may, by order, appoint any person to make such investigation as the Minister considers expedient for the due administration of this Act or into any matter relating to trading in securities, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights, and privileges as a person appointed under section 11. R.S.O. 1970, c. 426, s. 23.

1970

23. Notwithstanding section 21, the Minister may by order appoint any person to make such investigation as the Minister considers expedient for the due administration of this Act or into any matter relating to trading in securities, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights and privileges as a person appointed under section 21. 1966, c. 142, s. 23; 1968, c. 123, s. 9, amended.

1968

9. Section 23 of *The Securities Act, 1966* is amended by striking out "a trade" in the fourth line and inserting in lieu thereof "trading", so that the section shall read as follows:

23. Notwithstanding section 21, the Minister may by order appoint any person to make such investigation as he deems expedient for the due administration of this Act or into any matter relating to trading in securities, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights and privileges as a person appointed under section 21.

1966

23. Notwithstanding section 21, the Minister may by order appoint any person to make such investigation as he deems expedient for the due administration of this Act or into any matter relating to a trade in securities, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights and privileges as a person appointed under section 21. R.S.O. 1960, c. 363, s. 23; 1962-63, c. 131, s. 12, *amended*.

1978

14. No person, without the consent of the Commission, shall disclose, except to his counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 11 or 13.

1966

24. No person, without the consent of the Commission, shall disclose, except to his counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 21 or 23. R.S.O. 1960, c. 363, s. 24, *amended*.

1978

15. Where an investigation has been made under section 11, the Commission may, and, where an investigation has been made under section 13, the person making the investigation shall report the result thereof, including the evidence, findings, comments and recommendations, to the Minister, and the Minister may cause the report to be published in whole or in part in such manner as he considers proper. R.S.O. 1970, c. 426, s. 25

14. Evidence not to be disclosed.— No person, without the consent of the Commission, shall disclose, except to his counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 11 or 13. 1978, c. 47, s. 14.

15. Report to Minister.— Where an investigation has been made under section 11, the Commission may, and, where an investigation has been made under section 13, the person making the investigation shall report the result thereof, including the evidence, findings, comments and recommendations, to the Minister, and the Minister may cause the report to be published in whole or in part in such manner as he considers proper. 1978, c. 47, s. 15.

1966

25. Where an investigation has been made under section 21, the Commission may, and, where an investigation has been made under section 23, the person making the investigation shall, report the result thereof, including the evidence, findings, comments and recommendations, to the Minister, and the Minister may cause the report to be published in whole or in part in such manner as he deems proper. R.S.O. 1960, c. 363, s. 25, *amended*.

1982

16.(1) Order to freeze property. — The Commission may,

- (a) where it is about to order an investigation in respect of a person or company under section 11 or during or after an investigation in respect of a person or company under section 11 or 13;
- (b) where it is about to make or has made an order under section 123 that trading in securities of an issuer shall cease;
- (c) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or
- (d) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or

7. — (1) Clause 15 (1)(h) of the said Act is repealed and the following substituted therefor:

- (h) where it is about to make or has made an order under section 123 that trading in respect of any securities by any person or company shall cease

1982

have been instituted against any person or company, that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by the person or company.

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause (a), (b), (c) or (d) to hold such funds or securities or direct the person or company referred to in clause (a), (b), (c) or (d) to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), the *Judicature Act*, the *Corporations Act*, the *Business Corporations Act*, the *Winding-Up Act* (Canada) or section 17 of this Act, or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, provided that no such direction applies to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company, the direction applies only to the offices, branches or agencies thereof named in the direction.

(2) Application for directions. — Any person or company named in a direction issued under subsection (1) may, if in doubt as to the application of the direction to particular funds or securities, apply to the Commission for an order of clarification.

(3) Revocation or amendment of direction. — Upon the application of a person or company directly affected by a direction issued under subsection (1), the Commission may make an order on such terms and conditions it may impose revoking the direction or consenting to the release of any fund or security.

(4) Notice to land registry officers. — In any of the circumstances mentioned in clause (1)(a), (b), (c), or (d), the Commission may in writing or by telegram notify any land registrar or mining recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered or recorded against the lands or claims mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens* or a caution, and the Commission may in writing revoke or modify the notice. 1978, c. 47, s. 16.

(2) Subsection 16 (1) of the said Act is amended.

(a) by striking out "or securities" in the twenty-second line, in the twenty-third line, in the twenty-fifth line and in the twenty-seventh line and inserting in lieu thereof in each instance "securities or other property"; and

(b) by striking out "or security" in the thirty-third and thirty-fourth lines and inserting in lieu thereof "security or other property".

(3) Subsection 16 (2) of the said Act is amended by striking out "or securities" in the third line and inserting in lieu thereof "securities or other property".

(4) Subsection 16 (3) of the said Act is amended by striking out "or security" in the fifth line and inserting in lieu thereof "security or other property".

1978

16.— (1) The Commission may,

- (a) where it is about to order an investigation in respect of a person or company under section 11 or during or after an investigation in respect of a person or company under section 11 or 13;
- (b) where it is about to make or has made an order under section 123 that trading in securities of an issuer shall cease;
- (c) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or
- (d) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company, that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by the person or company.

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause *a, b, c or d* to hold such funds or securities or direct the person or company referred to in clause *a, b, c or d* to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act*, the *Winding-up Act* (Canada) or section 17 of this Act, or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, provided that no such direction applies to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company, the direction applies only to the offices, branches or agencies thereof named in the direction.

(2) Any person or company named in a direction issued under subsection 1 may, if in doubt as to the application of the direction to particular funds or securities, apply to the Commission for an order of clarification. R.S.O. 1970, c. 426, s. 26 (1, 2), *amended*.

(3) Upon the application of a person or company directly affected by a direction issued under subsection 1, the Commission may make an order on such terms and conditions it may impose revoking the direction or consenting to the release of any fund or security. *Var.*

(4) In any of the circumstances mentioned in clause *a*, *b*, *c*, or *d* of subsection 1, the Commission may in writing or by telegram notify any land registrar or mining recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered or recorded against the lands or claims mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens* or a caution, and the Commission may in writing revoke or modify the notice. R.S.O. 1970, c. 426, s. 26 (3), *amended*.

4. Subsection 1 of section 26 of *The Securities Act* is amended by inserting after "Act" where it occurs the second time in the twenty-sixth line, "*The Business Corporations Act*", so that the subsection shall read as follows:

(1) The Commission may,

- (a) where it is about to order an investigation under section 21 or during or after an investigation under section 21 or 23;
- (b) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company, that in the opinion of the Commission are connected with or arise out of any security or any trade therein or out of any business conducted by such person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause a, b or c to hold such funds or securities or direct the person or company referred to in clause a, b or c to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act*, or the *Winding-up Act* (Canada), or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, provided that no such direction applies to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company, the direction applies only to the offices, branches or agencies thereof named in the direction.

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20.—(1) The Commission may,

- (a) where it is about to order an investigation under section 21 or during or after an investigation under section 21 or 23;
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company, that in the opinion of the Commission are connected with or arise out of any security or any trade therein or out of any business conducted by such person or company,
- (b) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause *a*, *b* or *c* to hold such funds or securities or direct the person or company referred to in clause *a*, *b* or *c* to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act* or the *Winding-up Act* (Canada), or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, provided that no such direction applies to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company the direction applies only to the offices, branches or agencies thereof named in the direction.

(2) Any person or company in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any funds or security or in the case of a claim being made thereto by any person or company not named in the direction, may apply to a judge of the Supreme Court who may direct the disposition of such funds or security and may make such order as to costs as seems just.

(3) In any of the circumstances mentioned in clause *a*, *b* or *c* of subsection 1, the Commission may in writing or by

telegram notify any registrar of deeds, master of titles or mining recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered or recorded against the lands or claims mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens* or a caution, provided that the Commission may in writing revoke or modify the notice, R.S.O. 1960, c. 363, s. 26, *amended*.

17.(1) Appointment of receiver, etc.—The Commission may,
 (a) where it is about to order an investigation in respect of a person or company under section 11 or during or after an investigation in respect of a person or company under section 11 or 13;

(b) where it is about to make or has made an order under section 123 that trading in securities of an issuer shall cease;

(c) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities;

(d) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by the person or company; or

(e) where a person or company fails or neglects to comply with the minimum net asset requirements, investment restrictions, ownership restrictions, or capital requirements prescribed by the regulations for the person or company.

apply to a judge of the Supreme Court for the appointment of a receiver, receiver and manager, trustee or liquidator of the property of the person or company.

(2) Appointment.—Upon an application under subsection (1), the judge may, where he is satisfied that the appointment of a receiver, receiver and manager, trustee or liquidator of all or any part of the property of any person or company is in the best interests of the creditors of the person or company or of persons or companies of whose property is in the possession or under the control of the person or company, or, in a proper case, of the security holders of or subscribers to the person or company, appoint a receiver, receiver and manager, trustee or liquidator of the property of the person or company.

(3) *Ex parte* application.—Upon an *ex parte* application made by the Commission under this section, the judge may make an order under subsection (2) appointing a receiver, receiver and manager, trustee or liquidator for a period not exceeding fifteen days.

(4) Powers of receiver, etc.—A receiver, receiver and manager, trustee or liquidator of the property of any person or company appointed under this section shall be the receiver, receiver and manager, trustee or liquidator of all or any part of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, receiver and manager, trustee or liquidator shall have authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto.

(5) Enforcement of order.—An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

(6) Rules of practice.—Upon an application made under this section, the rules of practice of the Supreme Court apply. 1978, c.47, s.17.

1978

17.-(1) The Commission may,

(a) where it is about to order an investigation in respect of a person or company under section 11 or during or after an investigation in respect of a person or company under section 11 or 13,

(b) where it is about to make or has made an order under section 123 that trading in securities of an issuer shall cease,

(c) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities,

(d) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by the person or company, or

(e) where a person or company fails or neglects to comply with the minimum net asset requirements, investment restrictions, ownership restrictions, or capital requirements prescribed by the regulations for the person or company,

apply to a judge of the Supreme Court for the appointment of a receiver, receiver and manager, trustee or liquidator of the property of the person or company

(2) Upon an application under subsection 1, the judge may, where he is satisfied that the appointment of a receiver, receiver and manager, trustee or liquidator of all or any part of the property of any person or company is in the best interests of the creditors of the person or company or

of persons or companies any of whose property is in the possession or under the control of the person or company, or, in a proper case, of the security holders or subscribers to the person or company, appoint a receiver, receiver and manager, trustee or liquidator of the property of the person or company. R.S.O. 1970, c. 426, s. 27 (1, 2), *amended*

(3) Upon an *ex parte* application made by the Commission under this section, the judge may make an order under subsection 2 appointing a receiver, receiver and manager, trustee or liquidator for a period not exceeding fifteen days. R.S.O. 1970, c. 426, s. 27 (3), *amended*

(4) A receiver, receiver and manager, trustee or liquidator of the property of any person or company appointed under this section shall be the receiver, receiver and manager, trustee or liquidator of all or any part of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, receiver and manager, trustee or liquidator shall have authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto.

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

(6) Upon an application made under this section, the rules of practice of the Supreme Court apply. R.S.O. 1970, c. 426, s. 27 (4-6), *amended*

1966

27.—(1) The Commission may,

- (a) where it is about to order an investigation under section 21 or during or after an investigation under section 21 or 23;
 - (b) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or company or affording the right of any person or company to trade in securities; or
 - (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,
- apply to a judge of the Supreme Court for the appointment of a receiver or a receiver and manager or a trustee of the property of such person or company.

(2) Upon an application made under subsection 1, the judge may, where he is satisfied that the appointment of a receiver or a receiver and manager or a trustee of the property of any person or company is in the best interests of the creditors of such person or company or of persons or companies any of whose property is in the possession or under the control of such person or company, appoint a receiver or a receiver and manager or a trustee of the property of such person or company.

(3) Upon an *ex parte* application made by the Commission under this section, the judge may make an order under subsection 2 appointing a receiver or a receiver and manager or a trustee for a period not exceeding eight days.

(4) A receiver or a receiver and manager or a trustee of the property of any person or company appointed under this section shall be the receiver or the receiver and manager or the trustee of all the property belonging to the person or company or held by the person or company, on behalf of or in trust for any other person or company, and the receiver or the receiver and manager or the trustee shall have authority, if so directed by the judge, to wind-up or manage the business and affairs of the person or company and all powers necessary or incidental thereto.

(5) An order made under this section may be enforced in the same manner as any order of judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

(6) Upon an application made under this section, the rules of practice of the Supreme Court apply. R.S.O. 1960, c. 363, s. 27.

1978

PART VII

AUDITS

18.(1) Audits by Commission. — Notwithstanding anything in sections 19, 20, and 21, the Commission may in writing appoint any person to examine at any time,

- (a) the financial affairs of a registrant or a reporting issuer; and
- (b) the books and records of a custodian of assets of a mutual fund or of a custodian of shares or units of a mutual fund under a custodial agreement or other arrangement with a person or company engaged in the distribution of shares or units of the mutual fund.

and prepare such financial or other statements and reports that may be required by the Commission.

(2) Access to records. — The person making an examination under this section may inquire into and examine all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose financial affairs are being examined, and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

(3) Fees. — The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section, 1978, c. 47, s. 18.

18. (1) Notwithstanding anything in sections 19, 20 and 21, the Commission may in writing appoint any person to examine at any time,

- (a) the financial affairs of a registrant or a reporting issuer; and
- (b) the books and records of a custodian of assets of a mutual fund or of a custodian of shares or units of a mutual fund under a custodial agreement or other arrangement with a person or company engaged in the distribution of shares or units of the mutual fund.

and prepare such financial or other statements and reports that may be required by the Commission.

(2) The person making an examination under this section may inquire into and examine all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose financial affairs are being examined, and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. R.S.O. 1970, c. 426, s. 33, *amended*

1966

33.—(1) Notwithstanding anything in sections 30, 31 and 32, the Commission or any person to whom as its representative it may in writing delegate such authority may at any time make an examination of the financial affairs of a registrant or of any person or company whose securities have been the subject of a filing with the Commission, and prepare a balance sheet as of the date of such examination and such other statements and reports as may be required by the Commission. R.S.O. 1960, c. 363, s. 36 (1), *amended*.

(2) The Commission or any person making an examination under this section is entitled to free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose financial affairs are being examined, and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. R.S.O. 1960, c. 363, s. 36 (2, 3).

1982

PART VIII

SELF-REGULATION - GENERALLY

19. Panel of auditors. - Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario, shall,

- (a) select a panel of auditors, each of whom shall have practised as such in Canada for not fewer than five years and shall be known as a panel auditor or members' auditor; and
- (b) employ an exchange auditor, district association auditor or association auditor, as the case may be, whose appointment is subject to the approval of the Commission, and the appointee shall be an auditor who has practised as such in Canada for not fewer than ten years. 1978, c. 47, s. 19.

8. Part VIII of the said Act is amended by adding thereto the following section:

18a.—(1) Upon the application of an association or organization representing registrants, the Commission may, in writing recognize the applicant as a self-regulatory body where it is satisfied that to do so would be in the public interest and that the applicant has satisfied or can satisfy all conditions with respect to self-regulatory bodies prescribed under the regulations and the recognition shall be subject to such terms and conditions as the Commission may impose.

- (2) An applicant under subsection (1) need not be incorporated.
- (3) A self-regulatory body recognized under subsection (1) shall, subject to this Act and the regulations and any decision made by the Commission, regulate the standards and business conduct of its members.
- (4) The Commission may, where it appears to it to be in the public interest, make any decision,
 - (a) with respect to any by-law, rule or regulation of a self-regulatory body recognized under subsection (1);
 - (b) with respect to any direction, decision, order or ruling made under any by-law, rule or regulation of a self-regulatory body recognized under subsection (1); or
 - (c) with respect to any practice of a self-regulatory body recognized under subsection (1).

(5) Any person or company directly affected by any direction, decision, order or ruling made under any by-law, rule or regulation or a self-regulatory body recognized under subsection (1) may apply to the Commission for a hearing and review thereof and section 8 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director.

9. Section 19 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

19. Every stock exchange in Ontario recognized by the Commission under section 22 and, where the Commission determines that it is appropriate, every self-regulatory body recognized by the Commission under section 18a,

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19. Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall:

- (a) select a panel of auditors, each of whom shall have practised as such in Canada for not fewer than five years and shall be known as a panel auditor or members' auditor; and
- (b) employ an exchange auditor, district association auditor or association auditor as the case may be, whose appointment is subject to the approval of the Commission, and the appointee shall be an auditor who has practised as such in Canada for not fewer than ten years. R.S.O. 1970, c. 426, s. 30, *amended*

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30. Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall,

- (a) select a panel of auditors each of whom shall have practised as such in Ontario for not fewer than five years and shall be known as a panel auditor or members' auditor; and
- (b) employ an exchange auditor, district association auditor or association auditor, as the case may be, whose appointment is subject to the approval of the Commission, and the appointee shall be an auditor who has practised as such in Ontario for not fewer than ten years. R.S.O. 1960, c. 363, s. 33, *amended*.

20.(1) Audits by stock exchange and associations. — Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under clause 19(a) and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, district association auditor or association auditor, as the case may be.

(2) Audit by-laws subject to approval. — The by-laws, rules and regulations of every stock exchange in Ontario recognized by the Commission, the rules and regulations of the Ontario District of the Investment Dealers' Association of Canada and the regulations of the Broker-Dealers' Association of Ontario in respect of the practice and procedure of the examinations under subsection (1) are subject to the approval of the Commission and the actual conduct of the examinations shall be satisfactory to the Commission. 1978, c. 47, s. 20.

20.—(1) Every stock exchange in Ontario recognized by the Commission under section 22 and, where the Commission determines that it is appropriate, every self-regulatory body recognized by the Commission under section 18a, shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under clause 19 (a) and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, association, district association or association auditor, as the case may be.

(2) The by-laws, rules and regulations of every stock exchange in Ontario recognized by the Commission under section 22 and the by-laws, rules and regulations of every self-regulatory body recognized by the Commission under section 18a in respect of the practice and procedure of the examinations under subsection (1) are subject to the approval of the Commission and the actual conduct of the examinations shall be satisfactory to the Commission.

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31.—(1) Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under section 30, and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, district association auditor or association auditor, as the case may be.

(2) The by-laws, rules and regulations of every stock exchange in Ontario recognized by the Commission, the rules and regulations of the Ontario District of the Investment Dealers' Association of Canada and the regulations of the Broker-Dealers' Association of Ontario in respect of the practice and procedure of the examinations under subsection 1 and the actual conduct of the examinations shall be satisfactory to the Commission. R.S.O. 1960, c. 363, s. 34, amended.

21. Filing of financial statements of registrants.—Every registrant whose financial affairs are not subject to examination under section 20 shall keep such books and records as are necessary for the proper recording of his business transactions and financial affairs and shall deliver to the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to his financial position, certified by the registrant or an officer or partner of the registrant and reported upon by the auditor of the registrant, and shall deliver to the Commission such other information as the Commission may require in such form as it may prescribe. 1978, c. 47, s. 21.

PART IX

STOCK EXCHANGES

22.(1) Stock exchanges.—No person or company shall carry on business as a stock exchange in Ontario unless such stock exchange is recognized in writing as such by the Commission.

(2) Commission's powers.—The Commission may, where it appears to it to be in the public interest, make any decision,

- (a) with respect to the manner in which any stock exchange in Ontario carries on business;
- (b) with respect to any by-law, ruling, instruction, or regulation of any such stock exchange;
- (c) with respect to trading on or through the facilities of any such stock exchange or with respect to any security listed and posted for trading on any such stock exchange; or
- (d) to ensure that issuers whose securities are listed and posted for trading on any such stock exchange comply with this Act and the regulations.

(3) Review of decisions of stock exchange.—Any person or company directly affected by any direction, order or decision made under any by-law, rule or regulation of a stock exchange in Ontario may apply to the Commission for a hearing and review thereof and section 8 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director. 1978, c. 47, s. 22.

32. Every registrant whose financial affairs are not subject to examination under section 31 shall keep such books and records as are necessary for the proper recording of his business transactions and financial affairs and shall file with the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to his financial position, certified by such registrant or an officer or partner of such registrant and reported upon by the auditors of such registrant, and such other information as the Commission may require in such form as it may prescribe. R.S.O. 1960, c. 363, s. 35, *amended*.

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140.—(1) No person or company shall carry on business as a stock exchange in Ontario unless such stock exchange is recognized in writing as such by the Commission.

(2) The Commission may, where it appears to it to be in the public interest, make any direction, order, determination or ruling,

- (a) with respect to the manner in which any stock exchange in Ontario carries on business;
- (b) with respect to any by-law, ruling, instruction or regulation of any such stock exchange;
- (c) with respect to trading on or through the facilities of any such stock exchange or with respect to any security listed and posted for trading on any such stock exchange; or
- (d) to ensure that companies whose securities are listed and posted for trading on any such stock exchange comply with this Act and the regulations. 1966, c. 142, s. 139.

(3) Any person or company that feels aggrieved by any direction, order or decision made under any by-law, rule or regulation of a stock exchange in Ontario may apply to the Commission for a hearing and review thereof and section 28 applies to the hearing and review in the same manner as to the hearing and review of a direction, decision, order or ruling of the Director. 1968-69, c. 116, s. 9.

9. Section 139 of *The Securities Act, 1966* is amended by adding thereto the following subsection:

- (3) Any person or company who feels aggrieved by any direction, order or decision made under any by-law, rule or regulation of a stock exchange in Ontario may apply to the Commission for a hearing and review thereof and section 28 applies to the hearing and review in the same manner as to the hearing and review of a direction, decision, order or ruling of the Director.

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139.—(1) No person or company shall carry on business, as a stock exchange in Ontario unless such stock exchange is recognized in writing as such by the Commission.

(2) The Commission may, where it appears to it to be in the public interest, make any direction, order, determination or ruling,

- (a) with respect to the manner in which any stock exchange in Ontario carries on business;
- (b) with respect to any by-law, ruling, instruction or regulation of any such stock exchange;
- (c) with respect to trading on or through the facilities of any such stock exchange or with respect to any security listed and posted for trading on any such stock exchange; or
- (d) to ensure that companies whose securities are listed and posted for trading on any such stock exchange comply with this Act and the regulations. *New.*

23. Record of transactions.—Every stock exchange in Ontario shall keep a record showing the time at which each transaction on such stock exchange took place and shall supply to any customer of any member of such stock exchange, upon production of a written confirmation of any transaction with such member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the confirmation. 1978, c. 47, s. 23.

PART X

REGISTRATION

24.(1) Registration for trading.—No person or company shall,

- (a) trade in a security unless the person or company is registered as a dealer, or is registered as a salesman or as a partner or as an officer of a registered dealer and is acting on behalf of the dealer;
- (b) act as an underwriter unless the person or company is registered as an underwriter; or
- (c) act as an adviser unless the person or company is registered as a partner or as an officer of a registered adviser and is acting on behalf of the adviser.

and the registration has been made in accordance with this Act and the regulations and the person or company has received written notice of the registration from the Director and, where the registration is subject to terms and conditions, the person or company complies with such terms and conditions.

(2) Termination re salesman.—The termination of the employment of a salesman with a registered dealer shall operate as a suspension of the registration of the salesman until notice in writing has been received by the Director from another registered dealer of the employment of the salesman by the other registered dealer and the reinstatement of the registration has been approved by the Director.

(3) Non-trading employee.—The Director may designate as non-trading any employee or class of employees of a registered dealer that does not usually sell securities, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or any member of such class of employees should be required to apply for registration as a salesman. 1978, c. 47, s. 24.

140. Every stock exchange in Ontario shall keep a record showing the time at which each transaction on such exchange took place and shall supply to any customer of any member of such exchange, upon production of a written confirmation of any transaction with such member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the confirmation. R.S.O. 1960, c. 363, s. 68.

24.—(1) No person or company shall,

- (a) trade in a security unless the person or company is registered as a dealer, or is registered as a salesman or as a partner or as an officer of a registered dealer and is acting on behalf of the dealer;
- (b) act as an underwriter unless the person or company is registered as an underwriter; or
- (c) act as an adviser unless the person or company is registered as an adviser, or is registered as a partner or as an officer of a registered adviser and is acting on behalf of the adviser.

and the registration has been made in accordance with this Act and the regulations and the person or company has received written notice of the registration from the Director and, where the registration is subject to terms and conditions, the person or company complies with such terms and conditions. R.S.O. 1970, c. 426, s. 6 (1), *amended*.

(2) The termination of the employment of a salesman with a registered dealer shall operate as a suspension of the registration of the salesman until notice in writing has been received by the Director from another registered dealer of the employment of the salesman by the other registered dealer and the reinstatement of the registration has been approved by the Director.

(3) The Director may designate as non-trading any employee or class of employees of a registered dealer that does not usually sell securities, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or any member of such class of employees should be required to apply for registration as a salesman. R.S.O. 1970, c. 426, s. 6 (4, 5)

6.—(1) No person or company shall,

- (a) trade in a security unless such person or company is registered as a dealer, or as a salesman of a registered dealer;
- (b) act as a partner or officer of or on behalf of a person or company in connection with a trade in a security by such person or company unless such person or company is registered for trading in securities;
- (c) act as a salesman of or on behalf of a person or company in connection with a trade in a security by such person or company unless he is registered as a salesman of such person or company and such person or company is registered as a dealer;
- (d) act as an underwriter unless such person or company is registered as an underwriter, or is a bank to which the *Bank Act* (Canada) applies, or
- (e) act as an adviser unless such person or company is registered as an adviser,

and such registration has been made in accordance with this Act and the regulations and the person or company has received written notice of the registration from the Director and, where the registration is subject to terms and conditions, the person or company complies with such terms and conditions.

(2) No person shall act as a dealer, advisor or underwriter for or on behalf of a person or company that is registered as a dealer, advisor or underwriter except such partners or officers thereof as are designated by the Director. 1968-69, c. 116, s. 2

(3) No individual who becomes a partner or officer of a person or company after such person or company has been registered shall trade in securities until such person or company has received from the Director written permission for such partner or officer so to trade. 1966, c. 142, s. 6(3), 1968, c. 123, s. 5(2)

(4) The termination of the employment of a salesman with a person or company registered for trading in securities operates as a withdrawal of the registration of the salesman until notice in writing has been received by the Director from another person or company registered for trading in securities of the employment of the salesman by such other person or company and the employment has been approved by the Director. 1966, c. 142, s. 6(4), 1968, c. 123, s. 5(3)

(5) The Director may designate as "non-trading" any employee or class of employees of a person or company registered for trading in securities who do not usually sell securities to the public, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or member of any such class of employees should be required to apply for registration as a salesman. 1966, c. 142, s. 6

2. Subsection 1, as amended by subsection 1 of section 5 of *The Securities Amendment Act, 1968*, and subsection 2 of section 6 of *The Securities Act, 1966* are repealed and the following substituted therefor:

(1) No person or company shall,

(a) trade in a security unless such person or company is registered as a dealer, or as a salesman of a registered dealer;

(b) act as a partner or officer of or on behalf of a person or company in connection with a trade in a security by such person or company unless such person or company is registered for trading in securities;

(c) act as a salesman of or on behalf of a person or company in connection with a trade in a security by such person or company unless he is registered as a salesman of such person or company and such person or company is registered as a dealer;

(d) act as an underwriter unless such person or company is registered as an underwriter, or is a bank to which the *Bank Act* (Canada) applies; or

(e) act as an adviser unless such person or company is registered as an adviser,

and such registration has been made in accordance with this Act and the regulations and such person or company has received written notice of such registration from the Director and, where such registration is subject to terms and conditions, the person or company complies with such terms and conditions.

(2) No person shall act as a dealer, adviser or underwriter for or on behalf of a person or company that is registered as a dealer, adviser or underwriter except such partners or officers thereof as are designated by the Director.

5.--(1) Subsection 1 of section 6 of *The Securities Act, 1966* is amended by striking out "Registrar" in the thirty-second line and inserting in lieu thereof "Director".

(2) Subsection 3 of the said section 6 is amended by striking out "Registrar" in the fourth line and inserting in lieu thereof "Director".

(3) Subsection 4 of the said section 6 is amended by striking out "Registrar" in the fourth line and inserting in lieu thereof "Director".

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6.—(1) No person or company shall,

(a) notwithstanding clause *d*, trade in a security unless such person or company is registered as a broker, investment dealer, broker-dealer, sub-broker-dealer or security issuer or as a salesman of a registered broker, investment dealer, broker-dealer or security issuer;

(b) act as a partner or officer of or on behalf of a person or company in connection with a trade in a security by such person or company unless such person or company is registered for trading in securities;

(c) act as a salesman of or on behalf of a person or company in connection with a trade in a security by such person or company unless he is registered as a salesman of such person or company and such person or company is registered as a broker, investment dealer, broker-dealer or security issuer;

(d) act as an underwriter unless such person or company is registered as an underwriter, broker-dealer or investment dealer or is a bank to which the *Bank Act* (Canada) applies;

(e) act as investment counsel or securities adviser unless such person or company is registered as an investment counsel or securities adviser; or

(f) advise others by means of a publication or writing as to the advisability of investing in or purchasing or selling a security specified therein unless such person or company is registered or is exempted from registration,

and such registration has been made in accordance with this Act and the regulations and such person or company has received written notice of such registration from the Registrar and, where such registration is subject to terms and conditions, the person or company complies with such terms and conditions. R.S.O. 1960, c. 363, s. 6 (1), *amended*.

(2) Where a person or company is registered as a broker, investment dealer, broker-dealer, underwriter, investment counsel or securities adviser, every partner or officer of such person or company may act as a broker, investment dealer, broker-dealer, underwriter, investment counsel or securities adviser, as the case may be, on behalf of such person or company without separate registration, and, where a company is registered as a security issuer, the officials thereof who are designated by the Director as trading officials may act on its behalf in connection with a trade in a security by such company without separate registration. R.S.O. 1960, c. 363, s. 6 (2); 1962-63, c. 131, s. 4 (1), *amended*.

(3) No individual who becomes a partner or officer of a person or company after such person or company has been registered shall trade in securities until such person or company has received from the Registrar written permission for such partner or officer so to trade. R.S.O. 1960, c. 363, s. 6 (3).

(4) The termination of the employment of a salesman with a person or company registered for trading in securities shall operate as a withdrawal of the registration of the salesman until notice in writing has been received by the Registrar from another person or company registered for trading in securities of the employment of the salesman by such other person or company and the employment has been approved by the Director. R.S.O. 1960, c. 363, s. 6 (4); 1962-63, c. 131, s. 4 (2), *amended*.

(5) The Director may designate as "non-trading" any, employee or class of employees of a person or company registered for trading in securities who do not usually sell securities to the public, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or member of any such class of employees should be required to apply for registration as a salesman. R.S.O. 1960, c. 363, s. 20 (2), *amended*.

1978

25. (1) The Director shall grant registration, renewal of registration, reinstatement of registration or amendment to registration to an applicant where in the opinion of the Director the applicant is suitable for registration and the proposed registration or amendment to registration is not objectionable. R.S.O. 1970, c. 426, s. 7 (1), *amended*.

(2) The Director may in his discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in certain securities or a certain class of securities. R.S.O. 1970, c. 426, s. 7 (3).

(3) The Director shall not refuse to grant, renew, reinstate or amend registration or impose terms and conditions thereon without giving the applicant an opportunity to be heard. R.S.O. 1970, c. 426, s. 7 (2).

1966

7.—(1) The Director shall grant registration or renewal of registration to an applicant where in the opinion of the Director the applicant is suitable for registration and the proposed registration is not objectionable. R.S.O. 1960, c. 363, s. 7; 1962-63, c. 131, s. 5 (1).

(2) The Director shall not refuse to grant or refuse to renew registration without giving the applicant an opportunity to be heard. 1962-63, c. 131, s. 5 (2).

(3) The Director may in his discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in certain securities or a certain class of securities. *Nov.*

25.(1) Granting of registration.—The Director, shall grant registration, renewal of registration, reinstatement of registration or amendment to registration to an applicant where in the opinion of the Director the applicant is suitable for registration and the proposed registration or amendment to registration is not objectionable.

(2) Terms and conditions.—The Director may in his discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in certain securities or a certain class of securities.

(3) Refusal.—The Director shall not refuse to grant, renew, reinstate or amend registration or impose terms and conditions thereon without giving the applicant an opportunity to be heard. 1978, c. 47, s. 25.

1978

26.(1) Suspension, cancellation, etc.—The Commission, after giving a registrant an opportunity to be heard, may suspend, cancel, restrict or impose terms and conditions upon the registration or reprimand the registrant where in its opinion such action is in the public interest.

(2) Interim suspension.—Where the delay necessary for a hearing under subsection (1) would, in the opinion of the Commission, be prejudicial to the public interest, the Commission may suspend the registration without giving the registrant an opportunity to be heard, in which case it shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within fifteen days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 8.

(3) Surrender.—Notwithstanding subsection (1), the Commission may, upon an application by a registrant, accept, subject to such terms and conditions, as it may impose, the voluntary surrender of the registration of the registrant where it is satisfied the financial obligations of the registrant to its clients have been discharged and the surrender of the registration would not be prejudicial to the public interest. [1978, c.47, s.26]

26. -(1) The Commission, after giving a registrant an opportunity to be heard, may suspend, cancel, restrict or impose terms and conditions upon the registration or reprimand the registrant where in its opinion such action is in the public interest.

(2) Where the delay necessary for a hearing under subsection 1 would, in the opinion of the Commission, be prejudicial to the public interest, the Commission may suspend the registration without giving the registrant an opportunity to be heard, in which case it shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within fifteen days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 8. R.S.O. 1970, c.426, s. 8, *amended*.

(3) Notwithstanding subsection 1, the Commission may, upon an application by a registrant, accept, subject to such terms and conditions as it may impose, the voluntary surrender of the registration of the registrant where it is satisfied the financial obligations of the registrant to its clients have been discharged and the surrender of the registration would not be prejudicial to the public interest. *New.*

6. Section 8 of *The Securities Act, 1966* is repealed and the following substituted therefor:

8.--(1) The Commission, after giving the registrant an opportunity to be heard, shall suspend or cancel any registration where in its opinion such action is in the public interest.

(2) Where the delay necessary for a hearing under subsection 1 would, in the opinion of the Commission, be prejudicial to the public interest, the Commission may suspend the registration without giving the registrant an opportunity to be heard, in which case it shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within fifteen days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 28.

1966

8. The Director, after giving the registrant an opportunity to be heard, shall suspend or cancel any registration where in his opinion such action is in the public interest, but, where the granting of an opportunity to be heard would in his opinion be prejudicial to the public interest, he may suspend any registration without giving the registrant an opportunity to be heard, in which case he shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within fifteen days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 28. 1962-63, c. 131, s. 6.

1966

9. A further application for registration may be made upon new or other material or where it is clear that material circumstances have changed. 1962-63, c. 131, s. 7.

1966

10. An application for registration shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. R.S.O. 1960, c. 363, s. 10.

11. Every applicant shall state in the application an address for service in Ontario and, except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. R.S.O. 1960, c. 363, s. 11.

1978

27. Subsequent applications.—A further application for registration may be made upon new or other material or where it is clear that material circumstances have changed. 1978, c. 47, s. 27.

28. Application.—An application for registration shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. 1978, c. 47, s. 28.

29. Address for service.—Every applicant shall state in the application an address for service in Ontario and, except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. 1978, c. 47, s. 29.

30. The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, officer, director, governor or trustee of, or any person performing a like function for, or any employee of, the applicant or of the registrant to submit to examination under oath by a person designated by the Director. R.S.O. 1970, c. 426, s. 12, *amended*.

1966

12. The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, officer, director or employee of the applicant or of the registrant to submit to examination under oath by a person designated by the Director. R.S.O. 1960, c. 363, s. 12; 1962-63, c. 131, s. 8, *amended*.

31(1) Residence.— The Director may refuse registration to an individual if he has not been a resident of Canada for at least one year immediately prior to the date of application for registration or if he is not a resident of Ontario at the date of the application unless at the time of the application the individual is registered in a capacity corresponding to that of a dealer, adviser, underwriter, partner, officer, or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration.

(2) *Idem.*— The Director may refuse registration to a person or company if any director or officer of the person or company has not been a resident of Canada for at least one year immediately prior to the date of application for registration or is not a resident of Ontario at the date of the application unless at the time of the application he is registered in a capacity corresponding to that of a dealer, adviser, underwriter, partner, officer or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. 1978, c. 47, s. 31.

31(1) Residence.— The Director may refuse registration to an individual if he has not been a resident of Canada for at least one year immediately prior to the date of application for registration or if he is not a resident of Ontario at the date of the application unless at the time of the application the individual is registered in a capacity corresponding to that of a dealer, adviser, underwriter, partner, officer, or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration.

(2) The Director may refuse registration to a person or company if any director or officer of the person or company has not been a resident of Canada for at least one year immediately prior to the date of application for registration or is not a resident of Ontario at the date of the application unless at the time of the application he is registered in a capacity corresponding to that of a dealer, adviser, underwriter, partner, officer or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. R.S.O. 1970, c. 426, s. 14, *amended*.

1970

14.—(1) The Director may refuse registration to a person if he has not been a resident of Canada for at least one year immediately prior to the date of application for registration and if he is not a resident of Ontario at the date of such application unless at the time of such application such person is registered in a capacity corresponding to that of a dealer, adviser, underwriter or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. 1966, c. 142, s. 14 (1); 1968-69, c. 116, s. 3 (1).

(2) The Director may refuse registration to a company or partnership if every officer and director or every partner has not been a resident of Canada for at least one year immediately prior to the date of application for registration and if he is not a resident of Ontario at the date of such application unless at the time of such application he is registered in a capacity corresponding to that of a dealer, adviser, underwriter or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. 1966, c. 142, s. 14 (2); 1968-69, c. 116, s. 3 (2).

(3) For the purposes of this section, a person shall not be deemed to cease to reside in Ontario by reason only of his absence from Ontario as a member of the Canadian Armed Forces. 1966, c. 142, s. 14 (3).

3. (1) Subsection 1 of section 14 of *The Securities Act, 1966* is amended by striking out "broker, investment dealer, underwriter, broker-dealer, sub-broker-dealer, security issuer, investment counsel, securities adviser" in the sixth, seventh and eighth lines and inserting in lieu thereof "dealer, adviser, underwriter".

(2) Subsection 2 of the said section 14 is amended by striking out "broker, investment dealer, underwriter, broker-dealer, sub-broker-dealer, security issuer, investment counsel, securities adviser" in the seventh, eighth and ninth lines and inserting in lieu thereof "dealer, adviser, underwriter".

1966

14.—(1) The Director may refuse registration to a person if he has not been a resident of Canada for at least one year immediately prior to the date of application for registration and if he is not a resident of Ontario at the date of such application unless at the time of such application such person is registered in a capacity corresponding to that of a broker, investment dealer, underwriter, broker-dealer, sub-broker-dealer, security issuer, investment counsel, securities adviser or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration.

(2) The Director may refuse registration to a company or partnership if every officer and director or every partner has not been a resident of Canada for at least one year immediately prior to the date of application for registration and if he is not a resident of Ontario at the date of such application unless at the time of such application he is registered in a capacity corresponding to that of a broker, investment dealer, underwriter, broker-dealer, sub-broker-dealer, security issuer, investment counsel, securities adviser or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. *New.*

(3) For the purposes of this section, a person shall not be deemed to cease to reside in Ontario by reason only of his absence from Ontario as a member of the Canadian Forces. R.S.O. 1960, c. 363, s. 14 (3), *amended*.

32.(1) Notice of changes.—Subject to the regulations, every registered dealer shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in address for service in Ontario or any business address;
 - (b) any change in the directors or officers of the registered dealer and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor;
 - (c) any change in the holders of the voting securities of the registered dealer;
 - (d) the commencement and termination of employment of every registered salesman and, in the case of termination of employment, the reason therefor;
 - (e) the opening or closing of any branch office in Ontario and, in the case of the opening of any branch office in Ontario, the name and address of the person in charge thereof; and
 - (f) any change in the name or address of the person in charge of any branch office in Ontario.
- (2) Idem.—Subject to the regulations, every registered adviser and underwriter shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,
- (a) any change in address for service in Ontario or any business address;
 - (b) any change in the directors or officers of the registered adviser or underwriter and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor; and
 - (c) any change in the holders of the voting securities of the registered adviser or underwriter.

(3) Idem.—Every registered salesman shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in his address for service in Ontario or in his business address; and
- (b) every commencement and termination of his employment by a registered dealer.

(4) Exemptions.—The Director may, upon an application of a registrant that is a reporting issuer, exempt, subject to such terms and conditions as he may impose, the registrant from the requirement of subsections (1) and (2) that the Director be notified of any change in the holders of voting securities of the registrant where in his opinion it would not be prejudicial to the public interest to do so, 1978, c. 47, s. 32.

32. —(1) Subject to the regulations, every registered dealer shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in address for service in Ontario or any business address;
- (b) (i) any change in the directors or officers of the registered dealer and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor, and
(ii) any change in the holders of the voting securities of the registered dealer;
- (c) the commencement and termination of employment of every registered salesman and, in the case of termination of employment, the reason therefor;
- (d) the opening or closing of any branch office in Ontario and, in the case of the opening of any branch office in Ontario, the name and address of the person in charge thereof; and
- (e) any change in the name or address of the person in charge of any branch office in Ontario.

(2) Subject to the regulations, every registered adviser and underwriter shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in address for service in Ontario or any business address; and
- (b) (i) any change in the directors or officers of the registered adviser or underwriter and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor, and
(ii) any change in the holders of the voting securities of the registered adviser or underwriter.

01 -

(3) Every registered salesman shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

(a) any change in his address for service in Ontario or in his business address; and

(b) every commencement and termination of his employment by a registered dealer.

(4) The Director may, upon an application of a registrant that is a reporting issuer, exempt, subject to such terms and conditions as he may impose, the registrant from the requirement of subsections 1 and 2 that the Director be notified of any change in the holders of voting securities of the registrant where in his opinion it would not be prejudicial to the public interest to do so. R.S.O. 1970, c. 426, s. 15, *amended*.

1970

15.—(1) Every registered dealer shall, within five days of the event, notify the Director in writing of,

(a) any change in address for service or any business address;

(b) any change in the officers, directors or shareholders of a company or partners of a partnership;

(c) the commencement and termination of employment of every salesman and, in the case of termination of employment, the reason therefor;

(d) the opening or closing of any branch office and, in the case of the opening of any branch office, the name and address of the person in charge thereof; and

(e) any change in the name or address of the person in charge of any branch office. 1966, c. 142, s. 15 (D); 1968, c. 123, s. 7 (1); 1968-69, c. 116, s. 4 (1)

(2) Every registered adviser and underwriter shall, within five days of the event, notify the Director in writing of

(a) any change in address for service or any business address; and

(b) any change in the office of a registrant for a securities or a company or partners of a partnership. 1966, c. 142, s. 15 (3); 1968, c. 123, s. 7 (4); for s. 142, c. 146, s. 1 (3).

(3) Every registered salesman shall, within five days of the event, notify the Director in writing of,

(a) any change in his address for service or in his business address; and

(b) every commencement and termination of his employment by a registrant. 1966, c. 142, s. 15 (4); 1968, c. 123, s. 7 (5).

(4) Notwithstanding subsections 1 and 2, the Director may grant an exemption, upon such terms and conditions as he sees fit, from the requirement to notify the Director of any changes in shareholders if the registrant is a public company. 1966, c. 142, s. 15 (6); 1968, c. 123, s. 7 (7).

4. --(1) Subsection 1 of section 15 of *The Securities Act, 1966*, as amended by subsection 1 of section 7 of *The Securities Amendment Act, 1968*, is further amended by striking out "broker, investment dealer and broker-dealer" in the first and second lines and inserting in lieu thereof "dealer", so that the subsection, exclusive of the clauses, shall read as follows:

(1) Every registered dealer shall, within five days of the event, notify the Director in writing of,

(2) Subsection 2 of the said section 15, as amended by subsections 2 and 3 of section 7 of *The Securities Amendment Act, 1968*, is repealed.

(3) Subsection 3 of the said section 15, as amended by subsection 4 of section 7 of *The Securities Amendment Act, 1968*, is further amended by striking out "investment counsel, securities adviser" in the first line and inserting in lieu thereof "adviser", so that the subsection, exclusive of the clauses, shall read as follows:

(3) Every registered adviser and underwriter shall, within five days of the event, notify the Director in writing of,

(4) Subsection 5 of the said section 15, as amended by subsection 6 of section 7 of *The Securities Amendment Act, 1968*, is repealed.

1968

7.--(1) Subsection 1 of section 15 of *The Securities Act, 1966* is amended by striking out "Registrar" in the third line and inserting in lieu thereof "Director".

(2) Subsection 2 of the said section 15 is amended by striking out "Registrar" in the second line and inserting in lieu thereof "Director".

(3) Clause *b* of subsection 2 of the said section 15 is repealed and the following substituted therefor:

(b) any change in its officers, directors and other officials; and

(4) Subsection 3 of the said section 15 is amended by striking out "Registrar" in the third line and inserting in lieu thereof "Director".

(5) Subsection 4 of the said section 15 is amended by striking out "Registrar" in the second line and inserting in lieu thereof "Director".

(6) Subsection 5 of the said section 15 is amended by striking out "Registrar" in the second line and inserting in lieu thereof "Director".

(7) Subsection 6 of the said section 15 is amended by striking out "Registrar" in the third line and inserting in lieu thereof "Director".

15.—(1) Every registered broker, investment dealer and broker-dealer shall, within five days of the event, notify the Registrar in writing of,

- (a) any change in address for service or any business address;
 - (b) any change in the officers, directors or shareholders of a company or partners of a partnership;
 - (c) the commencement and termination of employment of every salesman and, in the case of termination of employment, the reason therefor;
 - (d) the opening or closing of any branch office and, in the case of the opening of any branch office, the name and address of the person in charge thereof; and
 - (e) any change in the name or address of the person in charge of any branch office.
- (2) Every registered security issuer shall, within five days of the event, notify the Registrar in writing of,
- (a) any change in address for service or any business address;
 - (b) any change in its officials; and
 - (c) the commencement and termination of employment of every salesman and, in the case of termination of employment, the reason therefor.

(3) Every registered investment counsel, securities adviser and underwriter shall, within five days of the event, notify the Registrar in writing of,

- (a) any change in address for service or any business address; and
- (b) any change in the officers, directors or shareholders of a company or partners of a partnership.

(4) Every registered salesman shall, within five days of the event, notify the Registrar in writing of,

(a) any change in his address for service or in his business address; and

(b) every commencement and termination of his employment by a registrant.

(5) Every registered sub-broker-dealer shall, within five days of the event, notify the Registrar in writing of any change in his address for service or in his business address, R.S.O. 1960, c. 363, s. 16, *amended*.

(6) Notwithstanding subsections 1 and 3, the Director may grant an exemption, upon such terms and conditions as he sees fit, from the requirement to notify the Registrar of any changes in shareholders if the registrant is a public company. *Not.*

11. Section 33 of the said Act is amended by striking out "their principal business or occupation" in the twenty-third line and inserting in lieu thereof "the person's or company's principal business or occupation as described in clauses (a) to (d)".

1978

33. Registration as an adviser is not required to be obtained by,

- (a) a bank to which the *Bank Act* (Canada) applies, or the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada), or a trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*,
- (b) a lawyer, accountant, engineer or teacher;
- (c) a registered dealer, or any partner, officer or employee thereof; and
- (d) a publisher of or any writer for any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commission or other consideration for giving the advice,

where the performance of the service as an adviser is solely incidental to their principal business or occupation; or

- (e) such other persons or companies as are designated by the regulations. R.S.O. 1970, c. 426, s. 18, *amended*.

PART XI

EXEMPTIONS FROM REGISTRATION REQUIREMENTS

33. Exemptions of advisers.— Registration as an adviser is not required to be obtained by,

- (a) a bank to which the *Bank Act* (Canada) applies, or the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada), or a trust company registered under the *Loan and Trust Corporations Act*, or an insurance company licensed under the *Insurance Act*;
 - (b) a lawyer, accountant, engineer or teacher;
 - (c) a registered dealer, or any partner, officer or employee thereof; and
 - (d) a publisher of or any writer for any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commission or other consideration for giving the advice,
- where the performance of the service as an adviser is solely incidental to their principal business or occupation; or
- (e) such other persons or companies as are designated by the regulations. 1978, c. 47, s. 33.

1970

18. Registration as an adviser is not required to be obtained by,

- (a) a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), or a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*;
- (b) a lawyer, accountant, engineer or teacher whose performance of such services is solely incidental to the practice of his profession;
- (c) a person or company registered for trading in securities under this Act, or any partner, officer or employee thereof, whose performance of such services is solely incidental to the conduct of his or its business as such;
- (d) a publisher of any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commission or other consideration for giving the advice and who gives the advice as solely incidental to the conduct of his business as a publisher; or
- (e) such other persons or companies as are designated by the regulations. 1966, c. 142, s. 18; 1968-69, c. 116, s. 5

5. -(1) Section 18 of *The Securities Act, 1966* is amended by striking out "investment counsel or securities adviser" in the first and second lines and inserting in lieu thereof "adviser", so that the subsection, exclusive of the clauses, shall read as follows:

18. Registration as an adviser is not required to be obtained by,

(2) Clause *d* of the said section 18 is amended by striking out "investment counsel or securities adviser" in the fifth and sixth lines and inserting in lieu thereof "adviser", so that the clause shall read as follows:

(i) a publisher of any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commission or other consideration for giving the advice and who gives the advice as solely incidental to the conduct of his business as a publisher; or

1966

18. Registration as an investment counsel or securities adviser is not required to be obtained by,

- (a) a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), or a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*;
- (b) a lawyer, accountant, engineer or teacher whose performance of such services is solely incidental to the practice of his profession;
- (c) a person or company registered for trading in securities under this Act, or any partner, officer or employee thereof, whose performance of such services is solely incidental to the conduct of his or its business as such;
- (d) a publisher of any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an investment counsel or securities adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commission or other consideration for giving the advice and who gives the advice as solely incidental to the conduct of his business as a publisher; or
- (e) such other persons or companies as are designated by the regulations. R.S.O. 1960, c. 363, s. 18, amended.

34.(1) Exemption of trades.— Subject to the regulations, registration is not required in respect of the following trades:

1. A trade by an executor, administrator, guardian or committee or by an authorized trustee or assignee, an interim or official receiver or a custodian under the *Bankruptcy Act* (Canada) or by a receiver under the *Judicature Act* or by a liquidator under the *Corporations Act*, the *Business Corporations Act*, or the *Winding-up Act* (Canada), or at a judicial sale.

1982

12.—(1) Paragraph 1 of subsection 34 (1) of the said Act is amended by inserting after "(Canada)" in the seventh line "or by a sheriff under the *Execution Act*".

1978

34.—(1) Subject to the regulations, registration is not required in respect of the following trades:

1. A trade by an executor, administrator, guardian or committee or by an authorized trustee or assignee, an interim or official receiver or a custodian under the *Bankruptcy Act* (Canada) or by a receiver under the *Judicature Act* or by a liquidator under the *Corporations Act*, the *Business Corporations Act*, or the *Winding-up Act* (Canada), or at a judicial sale.

1982

3.—(1) Paragraph 1 of subsection 1 of section 19 of *The Securities Act* is amended by inserting after "Act" in the sixth line, "*The Business Corporations Act*", so that the paragraph shall read as follows:

1. A trade in a security by an executor, administrator, or committee or by an authorized trustee or interim or official receiver or a receiver under the *Bankruptcy Act* (Canada), or by a liquidator under the *Judicature Act*, or by a receiver under the *Corporations Act*, or the *Business Corporations Act*, or the *Winding-up Act*, or the *Execution Act*, or at a judicial sale.

19.—(1) Subject to the regulations, registration is not required in respect of the following trades:

1. A trade in a security by an executor, administrator, guardian or committee or by an authorized trustee or assignee, an interim or official receiver or a custodian under the *Bankruptcy Act* (Canada), or by a receiver under the *Judicature Act* or by a liquidator under the *Corporations Act* or the *Winding-*

1979

2. An isolated trade by or on behalf of an issuer in a specific security of its own issue, for the issuer's account, or by or on behalf of an owner in a specific security, for the owner's account, where the trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities.

3. Paragraph 2 of subsection 1 of section 34 of the said Act is repealed and the following substituted therefor:

2. An isolated trade by or on behalf of an issuer in a specific security of its own issue, for the issuer's account, or by or on behalf of an owner in a specific security, for the owner's account, where the trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities.

1978

2. An isolated trade in a specific security by or on behalf of an owner or issuer, for the owner's, or issuer's account, where the trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities.

1966

2. An isolated trade in a specific security by or on behalf of the owner, for the owner's account, where such trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities.

1982

3. A trade where the party purchasing as principal, but not as underwriter, is,
 - i. a bank to which the *Bank Act* (Canada) applies, or the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada),
 - ii. a loan corporation or trust company registered under the *Loan and Trust Corporations Act*,
 - iii. an insurance company licensed under the *Insurance Act*,
 - iv. Her Majesty in right of Canada or any province or territory of Canada, or
 - v. any municipal corporation or public board or commission in Canada;

12. (2) Subparagraphs iv and v of paragraph 3 of the said subsection 34 (1) are repealed and the following substituted therefor:
 - iv. a subsidiary of any of the parties referred to in subparagraph i, ii or iii where the bank, loan corporation, trust company or insurance company, as the case may be, owns beneficially all of the voting securities of such subsidiary,
 - v. Her Majesty in right of Canada or any province or territory of Canada, or
 - vi. any municipal corporation or public board or commission in Canada.

1978

3. A trade where the party purchasing as principal, but not as underwriter, is,
 - i. a bank to which the *Bank Act* (Canada) applies, or the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada),
 - ii. a loan corporation or trust company registered under the *Loan and Trust Corporations Act*,
 - iii. an insurance company licensed under the *Insurance Act*,
 - iv. Her Majesty in right of Canada or any province or territory of Canada, or
 - v. any municipal corporation or public board or commission in Canada

1966

3. A trade where one of the parties is a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), or a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*, or is an officer or employee, in the performance of his duties as such, of Her Majesty in right of Canada, or of any province or territory of Canada, or of any municipal corporation or public board or commission in Canada, or any other trade where the purchaser or proposed purchaser is a person, other than an individual, or a company recognized by the Commission as an exempt purchaser.

1978

4. A trade where the party purchasing as principal is a company or person, other than an individual and is recognized by the Commission as an exempt purchaser.

† A trade where the party purchasing as principal is a company or a person other than an individual and is recognized by the Commission as an exempt purchaser

1966

- (3) Subject to the regulations, registration is not required in respect of a trade where the purchaser is a person, other than an individual, or company who purchases for investment only and not with a view to resale or distribution, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000.

- (4) For the purpose of subsection 3, a direct solicitation of or negotiation with a person or company with a view to effecting a sale is not a trade within the meaning of paragraph 31 of subsection 1 of section 1. *New.*

1982

5. A trade where the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000.

12.

(3) Paragraph 5 of the said subsection 34 (1) is repealed and the following substituted therefor:

5. A trade where the purchaser purchases as principal if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000 but this exemption is not available if the seller is,

- i. the issuer or an affiliate of the issuer,
- ii. a person, company or combination of persons or companies having the relationship to the issuer described in subparagraph iii of paragraph 11 of subsection 1 (1), or
- iii. an underwriter who, acting as underwriter, acquired the securities from a person or company described in subparagraph i or ii,

unless an offering memorandum is sent by prepaid mail or delivered by the seller or a person or company acting on behalf of the seller to the purchaser before an agreement of purchase and sale is entered into with such purchaser.

1978

5. A trade where the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000.

1978

6. A trade from the holdings of any person, company or combination of persons or companies described in subparagraph iii of paragraph 11 of subsection 1 of section 1 for the purpose of giving collateral for a *bona fide* debt.

6. A trade from the holdings of any person, company or combination of persons or companies described in subparagraph iii of paragraph 11 of subsection 1(1) for the purpose of giving collateral for a *bona fide* debt.

1966

- 19 (1) 4. A trade by or for the account of a pledgee, mortgagee or other encumbrancer for the purpose of liquidating a *bona fide* debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as security for the debt.

7. A trade by or for the account of a pledgee, mortgagee or other encumbrancer for the purpose of liquidating a *bona fide* debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt.

8. A trade in a security that may occasionally be transacted by employees of a registered dealer where the employees do not usually sell securities and have been designated by the Director as non-trading employees, either individually or as a class.

1978

8. A trade in a security that may occasionally be transacted by employees of a registered dealer where the employees do not usually sell securities and have been designated by the Director as non-trading employees, either individually or as a class.

1966

5. A trade in a security that may occasionally be transacted by employees of a person or company registered for trading in securities under this Act where the employees do not usually sell securities to the public and have been designated by the Director as "non-trading" employees, either individually or as a class.

1978

9. A trade between a person or company and an underwriter acting as purchaser or between or among underwriters.

9. A trade between a person or company and an underwriter acting as purchaser or between or among underwriters.

1966

6. A trade between a person or company and an underwriter acting as purchaser, and trades between or among underwriters.

10. A trade in a security by a person or company acting solely through an agent who is a registered dealer.

1982

(4) Paragraph 10 of the said subsection 34 (1) is amended by adding at the end thereof "or by a person or company with a registered dealer who is acting as principal".

1978

10. A trade in a security by a person or company acting solely through an agent who is a registered dealer.

1966

19 (1)

7. A trade in a security by a person or company acting solely through an agent who is a person or company registered for trading in securities under this Act.

1978

11. The execution of an unsolicited order to purchase or sell through a registered dealer by a bank to which the *Bank Act* (Canada) applies or a trust company registered under the *Loan and Trust Corporations Act* as agent for a person or company and the trade by such person or company in placing the unsolicited order with the bank or trust company.

11. The execution of an unsolicited order to purchase or sell through a registered dealer by a bank to which the *Bank Act* (Canada) applies or a trust company registered under the *Loan and Trust Corporations Act* as agent for a person or company and the trade by such person or company in placing the unsolicited order with the bank or trust company.

1982

12. (5) The said subsection 34 (1) is amended by adding thereto the following paragraph:

11a. A trade in a bond or debenture by way of an unsolicited order given to a bank to which the *Bank Act* (Canada) applies or to a trust company registered under the *Loan and Trust Corporations Act* if the bank or trust company is acting as principal and the bond or debenture is acquired by the bank or trust company for purposes of the trade from, or sold by the bank or trust company following the trade to, a registered dealer.

1982

- 12.

- (6) Subparagraph ii of paragraph 12 of the said subsection 34 (1) is amended by inserting after "reorganization" in the third and fourth lines "dissolution".

1978

12. A trade by an issuer,

- i. in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,
- ii. in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a *bona fide* reorganization or winding up of the issuer or distribution of its assets for the purpose of winding up its affairs pursuant to the laws

12. A trade by an issuer,

- i. in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,
 - ii. in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a *bona fide* reorganization or winding up of the issuer or distribution of its assets for the purpose of winding up its affairs pursuant to the laws of the jurisdiction in which the issuer was incorporated, organized or continued,
 - iii. in securities of its own issue transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer,
- provided that no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer.

of the jurisdiction in which the issuer was incorporated, organized or continued

- iii. in securities of its own issue transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer,

provided that no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer.

1966

8. i. A trade in a security of its own issue that is distributed or issued by a company to holders of its securities as a stock dividend or other distribution out of earnings or surplus,
- ii. A trade in a security whether of its own issue or not that is distributed or issued by a company to holders of its securities as incidental to a *bona fide* re-organization or winding-up of such company or distribution of its assets for the purpose of winding-up its affairs, or

- iii. The sale by a company of its securities pursuant to the exercise of a right, transferable or otherwise, granted by the company to holders of its securities to purchase additional securities of its own issue if the company has given the Commission written notice stating the date, amount, nature and conditions of the proposed sale, including the approximate net proceeds to be derived by the company on the basis of such additional securities being fully taken up and paid for, and either,

(a) the Commission has not informed the company in writing within ten days of the giving of such notice that it objects to the sale; or

(b) information satisfactory to the Commission relating to the securities has been delivered to and accepted by the Commission.

provided that, with respect to any trade referred to in subparagraph i or ii, no commission or other remuneration is paid or given to others in respect of such distribution or issuance except for ministerial or professional services or for services performed by a person or company registered for trading in securities under this Act.

1978

13. A trade by an issuer in a security of a reporting issuer held by it that is distributed by it to holders of its securities as a dividend in specie.

13. A trade by an issuer in a security of a reporting issuer held by it that is distributed by it to holders of its securities as a dividend in specie.

1978

14. A trade by an issuer,

14. A trade by an issuer,

i. in a right, transferable or otherwise granted by the issuer to holders of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the exercise of the right, or

i. in a right, transferable or otherwise granted by the issuer to holders of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the exercise of the right, or

ii. in securities of a reporting issuer held by it transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer;

ii. in securities of a reporting issuer held by it transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer.

if the issuer has given the Commission written notice stating the date, amount, nature and conditions of the proposed trade, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and paid for, and either,

if the issuer has given the Commission written notice stating the date, amount, nature and conditions of the proposed trade, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and paid for, and either,

iii. the Commission has not informed the issuer in writing within ten days of the giving of the notice that it objects to the proposed trade, or

iv. the issuer has delivered to the Commission information relating to the securities that is satisfactory to and accepted by the Commission.

iii. the Commission has not informed the issuer in writing within ten days of the giving of the notice that it objects to the proposed trade, or

iv. the issuer has delivered to the Commission information relating to the securities that is satisfactory to and accepted by the Commission.

1982

(7) Subparagraph ii of paragraph 15 of the said subsection 34 (1) is repealed and the following substituted therefor:

- ii. a statutory procedure under which one company takes title to the assets of another company which in turn loses its existence by operation of law, or under which one company merges with one or more other companies.

1978

15 A trade in a security of a company that is exchanged by or for the account of the company with another company or the holders of the securities of that other company in connection with:

- i. a statutory amalgamation or arrangement, or
- ii. a statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge into a new company.

15. A trade in a security of a company that is exchanged by or for the account of the company with another company or the holders of the securities of that other company in connection with, ...

- i. a statutory amalgamation or arrangement, or
- ii. a statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge into a new company.

16. A trade in a security of an issuer that is exchanged by or for the account of the issuer with the security holders of another issuer in connection with a take-over bid as defined in Part XIX.

1978

16. A trade in a security of an issuer that is exchanged by or for the account of the issuer with the security holders of another issuer in connection with a take-over bid as defined in Part XIX.

1971

3. (2) Paragraph 9 of subsection 1 of the said section 19 is repealed and the following substituted therefor:
9. A trade in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of such company in connection with,
- (a) a statutory amalgamation or arrangement;
 - (b) any statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge in a new company; or
 - (c) a take-over bid as defined in Part IX.

1966

- 19 (1) 9. A trade in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of such other company in connection with a consolidation, amalgamation, merger or re-organization of either company or in connection with a take-over bid as defined in Part IX.

17. A trade in a security of an issuer in connection with a take-over bid exempted from the requirements of Part XIX by subsection 88(2) or by the Commission under section 99.

1978

17. A trade in a security of an issuer in connection with a take-over bid exempted from the requirements of Part XIX by subsection 2 of section 88 or by the Commission under section 99.

1971

3 (2) 9a. A trade in a security of a company in connection with an offer to purchase shares by way of private agreement with fewer than fifteen shareholders, or an offer to purchase all of the shares in a private company.

1978

18. A trade by an issuer in a security of its own issue as consideration for a portion or all of the assets of any person or company, if the fair value of the assets so purchased is not less than \$100,000.

18. A trade by an issuer in a security of its own issue as consideration for a portion or all of the assets of any person or company, if the fair value of the assets so purchased is not less than \$100,000.

1971

3 (2) 9b. A trade in a security by a company as consideration for a portion of or all of the assets of any person, other than an individual, or any company who agrees to hold the securities for investment only and not with a view to resale or distribution, if the fair value of the assets so purchased is not less than \$100,000.

19. A trade by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to purchase by expectation of employment or continued employment.

1978

19. A trade by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to purchase by expectation of employment or continued employment.

1966

19 (1) 10. A trade by a company of securities of its own issue with its employees or the employees of an affiliate who are not induced to trade by expectation of employment or continued employment.

1978

20. A trade by an issuer in securities of its own issue where the trade is reasonably necessary to facilitate the incorporation or organization of the issuer and the securities are traded for a nominal consideration to not more than five incorporators or organizers unless the statute under which the issuer is incorporated or organized requires the trade to be for a greater consideration or to a larger number of incorporators or organizers, in which case the securities may be traded for that greater consideration or to that larger number of incorporators or organizers.

20. A trade by an issuer in securities of its own issue where the trade is reasonably necessary to facilitate the incorporation or organization of the issuer and the securities are traded for a nominal consideration to not more than five incorporators or organizers unless the statute under which the issuer is incorporated or organized requires the trade to be for a greater consideration or to a larger number of incorporators or organizers, in which case the securities may be traded for that greater consideration or to that larger number of incorporators or organizers.

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1982

21. A trade made by an issuer with a view to the sale of securities of its own issue if solicitations are made to not more than fifty prospective purchasers resulting in sales to not more than twenty-five purchasers and,

i. each purchaser purchases as principal, and all of the purchases are completed within a period of six months of the first purchase, except that subsequent sales to the same purchasers may be carried out if made in compliance with written agreements entered into during that six month period,

ii. each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,

(a) an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer; or

(b) a senior officer or director of the issuer or his spouse, parent, brother, sister or child,

iii. the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and

iv. no promoter of the issuer, other than a registered dealer, has acted as a promoter of any other issuer which has traded in securities of its own issue pursuant to the exemption in this paragraph within the previous twelve months,

but an issuer which has relied upon this exemption may not again thereafter rely upon this exemption.

(8) Paragraph 21 of the said subsection 34 (1) is repealed and the following substituted therefor

12.

21. A trade made by an issuer with a view to the sale of securities of its own issue if solicitations, in all jurisdictions including Ontario, are made to not more than fifty prospective purchasers resulting in sales to not more than twenty-five purchasers in all jurisdictions including Ontario and,

i. each purchaser purchases as principal, and all of the purchases are completed within a period of six months of the first purchase, except that subsequent sales to the same purchasers may be carried out if made in compliance with written agreements entered into during that six-month period,

ii. each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,

A. an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer, or

B. a senior officer or director of the issuer or of an affiliate of the issuer or a spouse, parent, brother, sister or child of any such director or officer.

iii. the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and

iv. no promoter of the issuer, other than a registered dealer, has acted as a promoter of any other issuer which has traded in securities of its own issue pursuant to the exemption in this paragraph within the previous twelve months,

but an issuer which has relied upon this exemption may not again thereafter rely upon this exemption.

1978

21. A trade made by an issuer with a view to the sale of securities of its own issue if solicitations are made to not more than fifty prospective purchasers resulting in sales to not more than twenty-five purchasers and,

- i. each purchaser purchases as principal, and all of the purchases are completed within a period of six months of the first purchase, except that subsequent sales to the same pur-

chasers may be carried out if made in compliance with written agreements entered into during that six month period,

ii. each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,

(a) an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer; or

(b) a senior officer or director of the issuer or his spouse, parent, brother, sister or child,

iii. the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and

iv. no promoter of the issuer, other than a registered dealer, has acted as a promoter of any other issuer which has traded in securities of its own issue pursuant to the exemption in this paragraph within the previous twelve months,

but an issuer which has relied upon this exemption may not again thereafter rely upon this exemption.

22. A trade in a commodity futures option or a commodity futures contract by a hedger through a dealer, within the meaning of the *Commodity Futures Act*.

1978

22. A trade in a commodity futures option or a commodity futures contract by a hedger through a dealer, within the meaning of *The Commodity Futures Act, 1978*.

1982

(9) Paragraph 23 of the said subsection 34 (1) is repealed and the following substituted therefor:

23. A trade in respect of which the regulations provide that registration is not required. 1978, c. 47, s. 34(1); 1979, c. 86, s. 3.

23. A trade in a security of an issuer where each of the parties to the trade is a person or company who is, as regards such issuer, a person or company referred to in subparagraph iii of paragraph 11 of subsection 1 (1).

24. A trade by an issuer in securities of its own issue with a promoter of the issuer or by a promoter of the issuer in securities of the issuer with another promoter of the issuer.

1971

3 (2) 9c. A trade by a company in the securities of its own issue to its promoters.

1982 (Continued)

25. A trade in securities of an issuer previously disposed of by the issuer pursuant to the exemption in paragraph 21 or 30 where each of the parties to the trade is one of the not more than twenty-five purchasers referred to in

12 (9)

- paragraph 21 or one of the not more than fifty purchasers referred to in paragraph 30.
26. A trade by an issuer of equity securities pursuant to a plan made available by that issuer to all holders of a class of publicly traded securities of the issuer the last address of whom as shown in the books of the issuer is in Ontario, which plan permits the holder to direct that dividends or interest, paid in respect of securities of the issuer's own issue be applied to the purchase from the issuer of equity securities of the issuer's own issue of a class that is publicly traded or any other securities of the issuer which are redeemable at the option of the holder but if the plan is intended to cover a period of more than one year, it shall be a requirement of the plan that notice of the right to withdraw from participation in the plan is mailed or delivered to the holder at least annually.
27. A trade made by an offeree described in clause 88 (1) (f) in securities which are being disposed of to a person or company making a take-over bid or issuer bid.
28. A trade made through the facilities of a stock exchange recognized by the Commission for the purposes of this paragraph, where,
- i. the trade is effected in whole or part by means of telephone or other telecommunications equipment linking the facilities of that stock exchange with the facilities of another stock exchange recognized by the Commission for the purposes of this paragraph,
 - ii. the trade is made in a security of a class or type designated by the Commission as exempt for the purposes of this paragraph, and
 - iii. each of the parties to the trade is registered as a dealer, or in a similar capacity, under the securities legislation of a province or territory of Canada.
29. A trade by a trust company registered under the *Loan and Trust Corporations Act* where the trade is made through its offices in the securities of a mutual fund promoted, managed and administered by such trust company provided no sales or other acquisition charges are levied.

30. A trade made by a promoter of an issuer or by an underwriter in a government incentive security of the issuer's own issue, if solicitations, in all jurisdictions including Ontario, are made to not more than seventy-five prospective purchasers resulting in sales to not more than fifty purchasers in all jurisdictions including Ontario and,
- i. each purchaser to whom securities are sold in reliance on this exemption has been supplied with information identifying every officer and director of the issuer and every promoter thereof and giving the particulars of such of their professional qualifications and associations during the immediately preceding five years as are relevant to the undertaking being financed and indicating which of the directors will be devoting his full time to the affairs of the issuer,
 - ii. each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,
 - A. an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer; or
 - B. a senior officer or director of the issuer or of an affiliate of the issuer or a spouse, parent, brother, sister or child of any such director or officer,
 - iii. the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and
 - iv. each purchaser to whom securities are sold in reliance on this exemption is furnished with an offering memorandum before an agreement of

purchase and sale is entered into with such purchaser.

31. A trade in respect of which the regulations provide that registration is not required.

1966

11. A trade in respect of which the regulations provide that registration is not required. R.S.O. 1960, c. 363, s. 19 (1); 1962-63, c. 131, s. 10 (1), *amended*.

1982

(2) Exemption *de* securities. — Subject to the regulations, registration is not required to trade in the following securities:

1. Bonds, debentures or other evidences of indebtedness.

- (a) of or guaranteed by the Government of Canada or any province of Canada or by the Government of the United Kingdom or any foreign country or any political division thereof;
- (b) of any municipal corporation in Canada, including debentures issued for public, separate, secondary or vocational school purposes, or guaranteed by any municipal corporation in Canada, or secured by or payable out of rates or taxes levied under the law of any province of Canada on property in such province and collectable by or through the municipality in which such property is situated;
- (c) of or guaranteed by a bank to which the *Bank Act* (Canada) applies, a trust company or loan corporation registered under the *Loan and Trust Corporations Act* or an insurance company licensed under the *Insurance Act*;
- (d) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreement Act* (Canada), if the bonds, debentures, or evidences of indebtedness are payable in the currency of Canada or the United States of America; or

(e) of or guaranteed by the Asian Development Bank or the Inter-American Development Bank, if the bonds, debentures or evidences of indebtedness are payable in the currency of Canada or the United States of America and if, with respect to such securities, such documents, certificates, reports, releases, statements, agreements or other information as may be required by the Commission are filed.

(10) Clause (a) of paragraph 1 of subsection 34 (2) of the said Act is repeated and the following substituted therefor:

- (c) of or guaranteed by a bank to which the *Bank Act* (Canada) applies, a trust company or loan corporation registered under the *Loan and Trust Corporations Act* or an insurance company licensed under the *Insurance Act*, other than bonds, debentures or other evidences of indebtedness which are subordinate in right of payment to deposits held by the issuer or guarantor of such bonds, debentures or other evidences of indebtedness.

1978

(2) Subject to the regulations, registration is not required to trade in the following securities:

f. Bonds, debentures or other evidences of indebtedness,

- (a) of or guaranteed by the Government of Canada or any province of Canada or by the Government of the United Kingdom or any foreign country or any political division thereof;

(b) of any municipal corporation in Canada, including debentures issued for public, separate, secondary or vocational school purposes, or guaranteed by any municipal corporation in Canada, or secured by or payable out of rates or taxes levied under the law of any province of Canada on property in such province and collectable by or through the municipality in which such property is situated;

- (c) of or guaranteed by a bank to which the *Bank Act* (Canada) applies, a trust company or loan corporation registered under the *Loan and Trust Corporations Act* or an insurance company licensed under the *Insurance Act*;

(d) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act* (Canada), if the bonds, debentures, or evidences of indebtedness are payable in the currency of Canada or the United States of America; or

(e) of or guaranteed by the Asian Development Bank or the Inter-American Development Bank, if the bonds, debentures or evidences of indebtedness are payable in the currency of Canada or the United States of America and if, with respect to such securities, such documents, certificates, reports, releases, statements, agreements or other information as may be required by the Commission are filed.

1966

1.9 (2) Subject to the regulations, registration is not required to trade in the following securities:

1. Bonds, debentures or other evidences of indebtedness,
 - (a) of or guaranteed by the government of Canada or any province of Canada or by the government of the United Kingdom or any foreign country or any political division thereof;
 - (b) of any municipal corporation in Canada, including debentures issued for public, separate, high or vocational school purposes, or guaranteed by any municipal corporation in Canada, or secured by or payable out of rates or taxes levied under the law of any province of Canada on property in such province and collectable by or through the municipality in which such property is situated;
 - (c) of or guaranteed by a bank to which the *Bank Act* (Canada) applies, a trust company or loan corporation registered under *The Loan and Trust Corporations Act* or an insurance company licensed under *The Insurance Act*; or
 - (d) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bratton Woods Agreements Act* (Canada), if the bonds, debentures or evidences of indebtedness are payable in the currency of Canada or the United States of America.

2. Certificates or receipts issued by a trust company registered under the *Loan and Trust Corporations Act* for moneys received for guaranteed investment.

1978

2. Certificates or receipts issued by a trust company registered under *The Loan and Trust Corporations Act* for moneys received for guaranteed investment.

1966

2. Certificates or receipts of a trust company registered under *The Loan and Trust Corporations Act* issued for moneys received for guaranteed investment.

1978

3. Securities issued by a private mutual fund.

3. Securities issued by a private mutual fund.

1966

- 19 (2) 3. Negotiable promissory notes or commercial paper maturing not more than one year from the date of issue, provided that each such note or commercial paper traded to an individual has a denomination or principal amount of not less than \$50,000.

4. Negotiable promissory notes or commercial paper maturing not more than one year from the date of issue, provided that each such note or commercial paper traded to an individual has a denomination or principal amount of not less than \$50,000.

5. Mortgages or other encumbrances upon real or personal property, other than mortgages or other encumbrances contained in or secured by a bond, debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations, if such mortgages or other encumbrances are offered for sale by a person or company registered or exempted from registration under the *Mortgage Brokers Act*.

6. Securities evidencing indebtedness due under any conditional sales contract or other title retention contract providing for the acquisition of personal property if such securities are not offered for sale to an individual.

1978

5. Mortgages or other encumbrances upon real or personal property, other than mortgages or other encumbrances contained in or secured by a bond, debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations, if such mortgages or other encumbrances are offered for sale by a person or company registered or exempted from registration under *The Mortgage Brokers Act*.

1966

19 (2)

4. Mortgages or other encumbrances upon real or personal property, other than mortgages or other encumbrances contained in or secured by a bond, debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations, if such mortgages or other encumbrances are not offered for sale to the public except by a person or company registered under *The Real Estate and Business Brokers Act*.

1978

6. Securities evidencing indebtedness due under any conditional sales contract or other title retention contract providing for the acquisition of personal property if such securities are not offered for sale to an individual.

1966

19 (2)

5. Securities evidencing indebtedness due under any conditional sales contract or other title retention contract providing for the acquisition of personal property if such securities are not offered for sale to the public.

7. Securities issued by an issuer organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit, where no part of the net earnings of such issuer enure to the benefit of any security holder and no commission or other remuneration is paid in connection with the sale thereof.

1978

7. Securities issued by an issuer organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit, where no part of the net earnings of such issuer enure to the benefit of any security holder and no commission or other remuneration is paid in connection with the sale thereof.

1966

6. Securities issued by a person or company organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit, where no part of the net earnings of such person or company enure to the benefit of any security holder.

19(2)

1978

8. Securities issued by corporations to which the *Co-operative Corporations Act* applies.

8. Securities issued by corporations to which *The Co-operative Corporations Act, 1973* applies.

1966

19(2)

7. Securities issued by corporations operated on a co-operative basis as defined by Part V of *The Corporations Act*.

1978

9. Shares of a credit union within the meaning of the *Credit Unions and Caisses Populaires Act*.

9. Shares of a credit union within the meaning of *The Credit Unions and Caisses Populaires Act, 1976*.

1966

8. Shares of a credit union within the meaning of *The Credit Unions Act*.

10. Securities of a private company where they are not offered for sale to the public.

1978

10. Securities of a private company where they are not offered for sale to the public.

1966

19 (2)

9. Securities of a private company issued by the private company if the securities are not offered for sale to the public.

1966

11. Securities issued and sold by a prospector for the purpose of financing a prospecting expedition.

19 (2)

10. Securities issued and sold by a prospector for the purpose of financing a prospecting expedition.

1978

12. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part XIII for which the Director has issued a receipt, where the securities are sold by the prospector or one of the prospectors who staked claims that belong to or are the subject of a declaration of trust in favour of the prospecting syndicate, and the prospector delivers a copy of the prospecting syndicate agreement to the person or company purchasing the security before accepting payment therefor.

12. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part XIII for which the Director has issued a receipt, where the securities are sold by the prospector or one of the prospectors who staked claims that belong to or are the subject of a declaration of trust in favour of the prospecting syndicate, and the prospector delivers a copy of the prospecting syndicate agreement to the person or company purchasing the security before accepting payment therefor.

1966

11. Securities issued by a prospecting syndicate where such securities are sold by the prospector or one of the prospectors who staked the claims that belong to or are the subject of a declaration of trust in favour of the prospecting syndicate within the meaning of Part VI, provided that a prospecting syndicate agreement relating to the prospecting syndicate has

been filed and a receipt therefor issued by the Registrar, and provided that the prospector delivers a copy of the prospecting syndicate agreement to the person or company purchasing the security before accepting payment therefor.

1978

13. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part III for which the Director has issued a receipt, if the securities are not offered for sale to the public and are sold to not more than fifty persons or companies.

13. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part XIII for which the Director has issued a receipt, if the securities are not offered for sale to the public and are sold to not more than fifty persons or companies.

1966

- 19 (2). 12. Securities of a prospecting syndicate within the meaning of Part VI, issued by the prospecting syndicate, where a prospecting syndicate agreement relating to the prospecting syndicate has been filed and a receipt therefor issued by the Registrar if such securities are not offered for sale to the public and are sold to not more than fifty persons or companies.

1971

- 3 (3) Subsection 2 of the said section 19 is amended by adding thereto the following paragraph:

14. Securities issued by a mining company or a mining exploration company as consideration for mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary.

- 12a. Securities issued by a mining company or a mining exploration company as consideration for mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary.

1982

(11) The said subsection 34 (2) is amended by adding thereto the following paragraph:

14a. Variable insurance contracts issued by a company licensed under the *Insurance Act* if the variable insurance contract is,

- i. a contract of group insurance,
- ii. a whole life insurance contract providing for the payment at maturity of an amount not less than three-quarters of the premium paid up to the age of seventy-five for a benefit payable at maturity,
- iii. an arrangement for the investment of policy dividends and policy proceeds in a separate and distinct fund to which contributions are made only from policy dividends and policy proceeds, or
- iv. a variable life annuity.

1966

19 (2)

15. Securities in respect of which the regulations provide that registration is not required.

13. Securities in respect of which the regulations provide that registration is not required. R.S.O. 1960, c. 363, s. 19 (2); 1962-63, c. 131, s. 10 (2, 3).

(3) Trades by trust company.—For the purpose of subsection (1), a trust company registered under the *Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee or as agent for accounts fully managed by it. 1978, c. 47, s. 34 (2, 3).

1982

- (12) Subsection 34 (3) of the said Act is repealed and the following substituted therefore:
- (3) For the purposes of subsection (1),
- (a) a trust company registered under the *Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee or as agent for accounts fully managed by it;
 - (b) a portfolio manager or a person or company who but for the applicability of an exemption under this Act or the regulations would be obliged to be registered as a portfolio manager shall be deemed to be acting as principal when it trades as agent for accounts fully managed by it.
 - (4) For the purpose of subsection (2), "contract", "life insurance" and "policy" have the same meaning as in section 1 of the *Insurance Act* and "group insurance" has the same meaning as in section 148 of that Act.

1978

- (3) For the purpose of subsection 1, a trust company registered under the *Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee or as agent for accounts fully managed by it. *New.*

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PART XII

TRADING IN SECURITIES GENERALLY

35.(1) Confirmation of trade.—Every registered dealer who has acted as principal or agent in connection with any trade in a security shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction, setting forth,

- (a) the quantity and description of the security;
 - (b) the consideration;
 - (c) whether or not the registered dealer is acting as principal or agent;
 - (d) if acting as agent in a trade, the name of the person or company from or to or through whom the security was bought or sold;
 - (e) the date and the name of the stock exchange, if any, upon which the transaction took place;
 - (f) the commission, if any, charged in respect of the trade; and
 - (g) the name of the salesman, if any, in the transaction.
- (2) *Idem.*—Where a trade is made in a security of a mutual fund the confirmation shall contain, in addition to the requirements of subsection (1),

- (a) the price per share or unit at which the trade was effected; and
- (b) the amount deducted by way of sales, service and other charges.

1982

13. Subsection 35 (6) of the said Act is repealed and the following substituted therefor.

(6) Every dealer who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of, and, to the extent of his knowledge after having made due inquiry, sufficient further particulars to identify the person or company from or to or through whom the security was bought or sold.

1978

35.—(1) Every registered dealer who has acted as principal or agent in connection with any trade in a security shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction, setting forth,

- (a) the quantity and description of the security;
- (b) the consideration;
- (c) whether or not the registered dealer is acting as principal or agent;
- (d) if acting as agent in a trade, the name of the person or company from or to or through whom the security was bought or sold;
- (e) the date and the name of the stock exchange, if any, upon which the transaction took place;
- (f) the commission, if any, charged in respect of the trade; and

- (g) the name of the salesman, if any, in the transaction
R.S.O. 1970, c. 426, s. 67 (1)
- (2) Where a trade is made in a security of a mutual fund, the confirmation shall contain, in addition to the requirements of subsection 1,
- (a) the price per share or unit at which the trade was effected; and
 - (b) the amount deducted by way of sales, service and other charges.
- (3) Subject to the regulations, where a trade is made in a security of a mutual fund under a contractual plan, the confirmation shall contain in addition to the requirements of subsections 1 and 2,
- (a) in respect of an initial payment made under a contractual plan which requires the prepayment of sales, service and other charges, a statement of the initial payment and the portion of the sales, service and other charges that is allocated to subsequent investments in the mutual fund and the manner of allocation thereof;
 - (b) in respect of each subsequent payment made under a contractual plan which requires the prepayment of sales, service and other charges, a statement of the portion of the sales, service and other charges, that is allocated to the payment which is the subject of the confirmation;
 - (c) in respect of an initial purchase made under a contractual plan which permits the deduction of sales, service and other charges from the first and subsequent instalments, a brief statement of the sales, service and other charges to be deducted from subsequent purchases;
 - (d) in respect of each purchase made under a contractual plan, a statement of the total number of shares or units of the mutual fund acquired and the amount of sales charges paid under the contractual plan up to the date of confirmation is sent or delivered.
- (4) Coded identification.—For the purposes of clauses (1)(d) and (g), a person or company or a salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesman will be furnished to the customer on request.
- (5) Filing of code.—Where a person or company uses a code or symbols for identification in a confirmation under subsection (1), the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning.
- (6) Disclosure by agent.—Every dealer who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the security was bought or sold. 1978, c. 47, s. 35.
- (d) in respect of each purchase made under a contractual plan, a statement of the total number of shares or units of the mutual fund acquired and the amount of sales charges paid under the contractual plan up to the date the confirmation is sent or delivered.
New.

(4) For the purposes of clauses *d* and *g* of subsection 1, a person or company or a salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesman will be furnished to the customer on request.

(5) Where a person or company uses a code or symbols for identification in a confirmation under subsection 1, the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning. R.S.O. 1970, c. 426, s. 67 (2, 3).

(6) Every dealer who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the security was bought or sold. R.S.O. 1970, c. 426, s. 67 (4), *amended*.

1970

67.—(1) Every person or company registered for trading in securities who has acted as principal or agent in connection with any trade in a security shall promptly send or deliver to the customer a written confirmation of the transaction, setting forth,

- (a) the quantity and description of the security;
- (b) the consideration;
- (c) whether or not the person or company registered for trading in securities is acting as principal or agent;
- (d) if acting as agent in a trade upon a stock exchange recognized by the Commission, the name of the person or company from or to or through whom the security was bought or sold;
- (e) the day and the name of the stock exchange, if any, upon which the transaction took place;
- (f) the commission, if any, charged in respect of the trade; and
- (g) the name of the salesman, if any, in the transaction. 1966, c. 142, s. 66 (1).

(2) For the purposes of clauses *d* and *g*, a person or company or a salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a

statement that the name of the person, company or salesman will be furnished to the customer on request.

(3) Where a person or company uses a code or symbols for identification in a confirmation under subsection 1, the person or company shall forthwith file the code or symbols and their meaning with the Commission, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning. 1968, c. 123, s. 24.

(4) Every person or company registered for trading in securities who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the security was bought or sold. 1966, c. 142, s. 66 (3).

1968

24. Subsection 2 of section 66 of *The Securities Act, 1966* is repealed and the following substituted therefor:

(2) For the purposes of clauses *d* and *g* of subsection 1, a person or company or a salesman may be identified in a written confirmation by, means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesman will be furnished to the customer on request.

(2a) Where a person or company uses a code or symbols for identification in a confirmation under subsection 1, the person or company shall forthwith file the code or symbols and their meaning with the Commission, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning.

1966

60.—(1) Every person or company registered for trading in securities who has acted as principal or agent in connection with any trade in a security shall promptly send or deliver to the customer a written confirmation of the transaction, setting forth,

- (a) the quantity and description of the security;
- (b) the consideration;
- (c) whether or not the person or company registered for trading in securities is acting as principal or agent;
- (d) if acting as agent in a trade upon a stock exchange recognized by the Commission, the name of the person or company from or to or through whom the security was bought or sold;
- (e) the day and the name of the stock exchange, if any, upon which the transaction took place;
- (f) the commission, if any, charged in respect of the trade; and
- (g) the name of the salesman, if any, in the transaction. R.S.O. 1960, c. 363, s. 51 (1), *amended*.

(2) Clause d of subsection 1 need not be complied with if the written confirmation contains a statement that the name of the person or company from or to or through whom the security was bought or sold will be furnished to the customer upon request. R.S.O. 1960, c. 363, s. 51 (2).

(3) Every person or company registered for trading in securities who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the security was bought or sold. *New*.

1978

36.—(1) The Commission may, by order, suspend, cancel, restrict or impose terms and conditions upon the right of any person or company or class of persons or companies named or described in the order to,

- (a) call at any residence; or
- (b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any security or in any class of securities. R.S.O. 1970, c. 426, s. 68 (1), *amended*.

(2) The Commission shall not make an order under subsection 1 without giving the person or company or class of persons or companies affected an opportunity to be heard. *New.*

(3) In this section, "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto.

(4) For the purposes of this section, a person or company shall be deemed conclusively to have called or telephoned where an officer, director or salesman of the person or company calls or telephones on its behalf. R.S.O. 1970, c. 426, s. 68 (3, 4).

36.(1) Order prohibiting calls to residences.— The Commission may, by order, suspend, cancel, restrict or impose terms and conditions upon the right of any person or company or class of persons or companies named or described in the order to,

- (a) call at any residence; or
- (b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any security or in any class of securities.

(2) Hearing.— The Commission shall not make an order under subsection (1) without giving the person or company or class of persons or companies affected an opportunity to be heard.

(3) "residence" defined.— In this section, "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto.

(4) What constitutes calls.— For the purposes of this section, a person or company shall be deemed conclusively to have called or telephoned where an officer, director or salesman of the person or company calls or telephones on its behalf. 1978, c. 47, s. 36.

1970

68.—(1) No person or company shall,

- (a) call at any residence; or
- (b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any security with any member of the public. 1966, c. 142, s. 67 (1); 1968, c. 123, s. 25 (1).

(2) Subsection 1 does not apply,

- (a) where the person or company calls at or telephones to the residence,
 - (i) of a close personal friend, a business associate or a customer with whom or on whose behalf the person or company calling or telephoning has been in the habit of trading in securities, or
 - (ii) of a person who has requested in writing that information respecting a specific security be furnished him by the person or company so calling or telephoning, but in such case the person or company so calling or telephoning shall call or telephone only in reference to that security; or
- (b) to a trade in any security in respect of which registration is not required. 1966, c. 142, s. 67 (2); 1968, c. 123, s. 25 (2).

(3) In this section, "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto. 1966, c. 142, s. 67 (3).

(4) For the purposes of subsections 1 and 2, a company shall be deemed to have called or telephoned where an officer, trading official or salesman of the company calls or telephones on its behalf. 1968, c. 123, s. 25 (3).

1968

25.—(1) Subsection 1 of section 67 of *The Securities Act, 1966* is amended by inserting after "person" in the first line "or company", so that the subsection shall read as follows:

(1) No person or company shall,

(a) call at any residence; or

(b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any security with any member of the public.

(2) Clause a of subsection 2 of the said section 67 is repealed and the following substituted therefor:

(a) where the person or company calls at or telephones to the residence,

(i) of a close personal friend, a business associate or a customer with whom or on whose behalf the person or company calling or telephoning has been in the habit of trading in securities, or

(ii) of a person who has requested in writing that information respecting a specific security be furnished him by the person or company so calling or telephoning, but in such case the person or company so calling or telephoning shall call or telephone only in reference to that security; or

(3) The said section 67 is amended by adding thereto the following subsection:

(4) For the purposes of subsections 1 and 2, a company shall be deemed to have called or telephoned where an officer, trading official or salesman of the company calls or telephones on its behalf.

07.---(1) No person shall,

- (a) call at any residence; or
- (b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any security with any member of the public.

(2) Subsection 1 does not apply,

(a) where the person calls at or telephones to the residence,

(i) of a close personal friend, a business associate or a customer with whom or on whose behalf the person calling or telephoning has been in the habit of trading in securities, or

(ii) of a person who has requested in writing that information respecting a specific security be furnished him by the person so calling or telephoning, but in such case the person so calling or telephoning shall call or telephone only in reference to that security; or

(b) to a trade in any security in respect of which registration is not required. R.S.O. 1960; c. 363, s. 53 (1, 2), *amended*.

(3) In this section, "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto. R.S.O. 1960, c. 363, s. 53 (3).

1978

37.(1) Representations prohibited.—No person or company, with the intention of effecting a trade in a security, other than a security that carries an obligation of the issuer to redeem or purchase, or a right of the owner to require redemption or purchase, shall make any representation, written or oral, that he or any person or company,

- (a) will resell or repurchase; or
- (b) will refund all or any of the purchase price of,

such security.

(2) Future value.—No person or company, with the intention of effecting a trade in a security, shall give any undertaking, written or oral, relating to the future value or price of such security.

(3) Listing.—No person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Director, make any representation, written or oral, that such security will be listed on any stock exchange or that application has been or will be made to list such security upon any stock exchange.

(4) Application of section.—This section does not apply to any representation referred to in subsection (1) made to a person or to a company where the representation is contained in an enforceable written agreement and the security has an aggregate acquisition cost of more than \$50,000. 1978, c. 47, s. 37.

37. (1) No person or company, with the intention of effecting a trade in a security, other than a security that carries an obligation of the issuer to redeem or purchase, or a right of the owner to require redemption or purchase, shall make any representation, written or oral, that he or any person or company,

- (a) will resell or repurchase; or
- (b) will refund all or any of the purchase price of,

such security

(2) No person or company, with the intention of effecting a trade in a security, shall give any undertaking, written or oral, relating to the future value or price of such security.

(3) No person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Director, make any representation, written or oral, that such security will be listed on any stock exchange or that application has been or will be made to list such security upon any stock exchange.

(4) This section does not apply to any representation referred to in subsection 1 made to a person or to a company where the representation is contained in an enforceable written agreement and the security has an aggregate acquisition cost of more than \$50,000. R.S.O. 1970, c. 426, s. 69, amended.

1966

68.—(1) No person or company, with the intention of effecting a trade in a security other than a security that carries a right of redemption or repurchase by the person or company issuing such security, shall make any representation, written or oral, that he or any person or company,

- (a) will resell or repurchase; or
- (b) will refund all or any of the purchase price of, any such security in which he is trading.

(2) No person or company, with the intention of effecting a trade in a security, shall give any undertaking, written or oral, relating to the future value or price of such security. R.S.O. 1960, c. 363, s. 54 (1, 2).

(3) No person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Director, make any representation, written or oral, that such security will be listed on any stock exchange or that application has been or will be made to list such security upon any stock exchange. R.S.O. 1960, c. 363, s. 54 (3); 1962-63, c. 131, s. 19.

(4) This section does not apply to any representation referred to in subsection 1 made to a person, other than an individual, or to a company where the representation is contained in a written agreement signed by the person or company intending to effect a trade in a security and the security has an aggregate acquisition cost of more than \$50,000. *New.*

38.(1) Where dealer is principal.—Where a registered dealer, with the intention of effecting a trade in a security with any person or company other than another registered dealer, issues, publishes or sends a circular, pamphlet, letter, telegram or advertisement, and proposes to act in the trade as a principal, the registered dealer shall so state in the circular, pamphlet, letter, telegram or advertisement or otherwise in writing before entering into a contract for the sale or purchase of any such security and before accepting payment or receiving any security or other consideration under or in anticipation of any such contract.

(2) Effect of statement.—A statement made in compliance with this section or clause 35(1)(c) that a dealer proposes to act or has acted as principal in connection with a trade in a security does not prevent such dealer from acting as agent in connection with a trade of such security.

(3) Application of section.—This section does not apply to trades referred to in subsection 34(1) or to securities referred to in subsection 34(2). 1978, c. 47, s. 38.

1982

14. Subsection 38 (2) of the said Act is repealed and the following substituted therefor:

(2) A statement made in compliance with this section or clause 35 (1) (c) that a registered dealer proposes to act or has acted as principal in connection with a trade in a security does not prevent such registered dealer from acting as agent in connection with a trade of such security.

1978

38.—(1) Where a registered dealer, with the intention of effecting a trade in a security with any person or company other than another registered dealer, issues, publishes or sends a circular, pamphlet, letter, telegram or advertisement, and proposes to act in the trade as a principal, the registered dealer shall so state in the circular, pamphlet, letter, telegram or advertisement or otherwise in writing before entering into a contract for the sale or purchase of any such security and before accepting payment or receiving any security or other consideration under or in anticipation of any such contract. R.S.O. 1970, c. 426, s. 70 (1)

(2) A statement made in compliance with this section or clause c of subsection 1 of section 35 that a dealer proposes to act or has acted as principal in connection with a trade in a security does not prevent such dealer from acting as agent in connection with a trade of such security.

(3) This section does not apply to trades referred to in subsection 1 of section 34 or to securities referred to in subsection 2 of section 34. R.S.O. 1970, c. 426, s. 70 (3, 4).

1966

69.—(1) Where a person or company registered for trading in securities, with the intention of effecting a trade in a security with any person or company other than a person or company registered for trading in securities, issues, publishes or sends a circular, pamphlet, letter, telegram or advertisement, and proposes to act in such trade as a principal, such person or company shall so state in the circular, pamphlet, letter, telegram or advertisement or otherwise in writing before entering into a contract for the sale or purchase of any such security and before accepting payment or receiving any security or other consideration under or in anticipation of any such contract.

(2) Where a person or company registered for trading in securities, with the intention of effecting a trade in a security with any person or company other than a person or company registered for trading in securities, makes an oral offer or invitation for an offer to any person or company and effects such trade as a principal, such person or company shall state in a written confirmation of the contract that he has acted as principal.

(3) A statement made in compliance with this section that a person or company registered for trading in securities proposes to act or has acted as principal in connection with a trade in a security does not prevent such person or company from acting as agent in connection with a trade in such security.

(4) This section does not apply to trades referred to in subsection 1 of section 19 or to securities referred to in subsection 2 of section 19. R.S.O. 1960, c. 363, s. 55, *amended*.

1978

39. Disclosure of financial interest of advisers and dealers.—Subject to the regulations, every registered adviser shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent out by him, in which the adviser recommends that a specific security be purchased, sold or held, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he or any partner, director, officer or a person or company that would be an insider of the adviser if the reporting issuer may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof, including,

- (a) any ownership, beneficial or otherwise, that any of them may have in respect of such securities or in any securities issued by the same issuer;
- (b) any option that any of them may have in respect of such securities, and the terms thereof;
- (c) any commission or other remuneration that any of them has received or may expect to receive from any person or company in connection with any trade in such securities;
- (d) any financial arrangement relating to such securities that any of them may have with any person or company; and
- (e) any financial arrangement that any of them may have with any underwriter or other person or company who has any interest in the securities. 1978, c. 47, s. 39.

39. Subject to the regulations, every registered adviser shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent out by him, in which the adviser recommends that a specific security be purchased, sold or held, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he or any partner, director, officer or a person or company that would be an insider of the adviser if the adviser was a reporting issuer may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof, including,

- (a) any ownership, beneficial or otherwise, that any of them may have in respect of such securities or in any securities issued by the same issuer;
- (b) any option that any of them may have in respect of such securities, and the terms thereof;
- (c) any commission or other remuneration that any of them has received or may expect to receive from any person or company in connection with any trade in such securities;
- (d) any financial arrangement relating to such securities that any of them may have with any person or company; and
- (e) any financial arrangement that any of them may have with any underwriter or other person or company who has any interest in the securities. R.S.O. 1970, c. 426, s. 72, *amended*.

1970

72. Every registered adviser shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent by him, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof, including,

- (a) any ownership, beneficial or otherwise, that he may have in such securities or in any securities issued by the same person or company;
- (b) any option that he may have in respect of such securities, and the terms thereof;
- (c) any commission or other remuneration that he has received or may expect to receive from any person or company registered for trading in securities or otherwise in connection with any trade in such securities;
- (d) any financial arrangement that he may have with any person or company registered for trading in securities relating to such securities; and
- (e) any financial arrangement that he may have with any underwriter or other person or company who has any interest in such securities. 1966, c. 142, s. 71; 1968-69, c. 116, s. 7.

1968-69

7. Section 71 of *The Securities Act, 1966* is amended by striking out "investment counsel and securities adviser" in the first and second lines and inserting in lieu thereof "adviser", so that the section, exclusive of the clauses, shall read as follows:

71. Every registered adviser shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent by him, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof, including,

1966

71. Every registered investment counsel and securities adviser shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent by him, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof, including,

- (a) any ownership, beneficial or otherwise, that he may have in such securities or in any securities issued by the same person or company;
- (b) any option that he may have in respect of such securities, and the terms thereof;
- (c) any commission or other remuneration that he has received or may expect to receive from any person or company registered for trading in securities or otherwise in connection with any trade in such securities;
- (d) any financial arrangement that he may have with any person or company registered for trading in securities relating to such securities; and
- (e) any financial arrangement that he may have with any underwriter or other person or company who has any interest in the securities. R.S.O. 1960, c. 363, s. 57, *amended*.

40. Disclosure of underwriting liability. — Every registered dealer that recommends a purchase, sale, exchange or hold of a security in any circular, pamphlet, advertisement, letter, telegram or other publication issued, published or sent by it and intended for general circulation shall, in type not less legible than that used in the body of the publication, state whether the registered dealer or any of its officers or directors has at any time during the past twelve months assumed an underwriting liability with respect to such securities or for consideration provided financial advice to the issuer of such securities or whether the registered dealer or any of its officers or directors will receive any fees as a result of the recommended action. 1978, c. 47, s. 40.

1978

40. Every registered dealer that recommends a purchase, sale, exchange or hold of a security in any circular, pamphlet, advertisement, letter, telegram or other publication issued, published or sent by it and intended for general circulation shall, in type not less legible than that used in the body of the publication, state whether the registered dealer or any of its officers or directors has at any time during the past twelve months assumed an underwriting liability with respect to such securities or for consideration provided financial advice to the issuer of such securities or whether the registered dealer or any of its officers or directors will receive any fees as a result of the recommended action. *New.*

1982

15. Section 41 of the said Act is repealed and the following substituted therefor:

41. Every registered dealer shall, on the request of a customer, provide to the customer a copy of the most recently prepared annual statement of the dealer's financial condition, as filed with the Commission or with the self-regulatory organization of which it is a member, made up and certified as required by the regulations together with a list of the names of the partners or directors and senior officers of the dealer made up and certified as of a date not more than thirty days prior to the request and shall inform its customers on every statement of account or in such other manner as the Commission may approve that this information is available but where the Commission determines that a registered dealer or a class of registered dealers is subject to conditions of registration or to regulations imposed by a self-regulatory organization that require provision to customers in the same or some other manner of other appropriate information, the Commission may, subject to such terms and conditions as the Commission may impose, exempt the registered dealer or class of registered dealers from the requirements of this section.

1978

41. Every registered dealer shall publish the name of every person or company having an interest, either directly or indirectly, to the extent of not less than 5 per cent in the capital of the dealer, on all letterheads, circulars and stationery that contain any offer or solicitation respecting a trade in securities or in a preliminary prospectus or prospectus upon or in which the name of the registered dealer appears as underwriter but where the Commission determines that a registered dealer or a class of registered dealers is subject to conditions of registration or to regulations imposed by a self-regulatory organization that require provision to customers in the same or some other manner of other appropriate information, the Commission may, subject to such terms and conditions as the Commission may impose, exempt the registered dealer or class of registered dealers from the requirements of this section. R.S.O. 1970, c. 426, s. 73, *amended*.

1966

72. Every partnership or company registered for trading in securities shall publish the name of every person having an interest, either directly or indirectly, to the extent of not less than 5 per cent in the capital of the partnership or company, as the case may be, on all letterheads, circulars and other stationery or in a prospectus upon or in which the name of the partnership or company appears as underwriter and that contain any offer or solicitation respecting a trade in securities. R.S.O. 1960, c. 363, s. 58, *amended*.

42. Use of name of another registrant. — No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless he is a partner, officer or agent of or is authorized so to do in writing by the other registrant. 1978, c. 47, s. 42.

43. Registration not to be advertised. — No person or company shall hold himself out as being registered by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he is registered. 1978, c. 47, s. 43.

44. Holding out by unregistered person. — No person or company who is not registered shall, either directly or indirectly, hold himself out as being registered. 1978, c. 47, s. 44.

1966

73. No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless he is a partner, officer or agent of or is authorized so to do in writing by the other registrant. R.S.O. 1960, c. 363, s. 59, *amended*.

1978

43. No person or company shall hold himself out as being registered by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he is registered. R.S.O. 1970, c. 426, s. 75.

1966

74. No person or company shall hold himself out as being a registrant by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he is a registrant. R.S.O. 1960, c. 363, s. 60, *amended*.

1978

44. No person or company who is not registered shall, either directly or indirectly, hold himself out as being registered. R.S.O. 1970, c. 426, s. 76.

1966

75. No person or company who is not a registrant shall, either directly or indirectly, hold himself out as being a registrant. R.S.O. 1960, c. 363, s. 61, *amended*.

45. Advertising approval by Commission.— No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any security or issuer. 1978, c. 47, s. 45.

45. No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any security or issuer. R.S.O. 1970, c. 426, s. 77.

1966

76. No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any security. R.S.O. 1960, c. 363, s. 62, *amended*.

1978

46.(1) Margin contracts.— Where a person, or a partner or employee of a partnership, or a director, officer or employee of a company, after he or the partnership or company has contracted as a registered dealer with any customer to buy and carry upon margin any securities of any issuer either in Canada or elsewhere, and while such contract continues, sells or causes to be sold securities of the same issuer for any account in which,

46.—(1) Where a person, or a partner or employee of a partnership, or a director, officer or employee of a company, after he or the partnership or company has contracted as a registered dealer with any customer to buy and carry upon margin any securities of any issuer either in Canada or elsewhere, and while such contract continues, sells or causes to be sold securities of the same issuer for any account in which,

- (a) he;
- (b) his firm or a partner thereof; or
- (c) the company or a director thereof,

has a direct or indirect interest, if the effect of such sale would, otherwise than unintentionally, be to reduce the amount of such securities in the hands of the dealer or under his control in the ordinary course of business below the amount of such securities that the dealer should be carrying for all customers, any such contract with a customer is, at the option of the customer, voidable and the customer may recover from the dealer all moneys paid with interest thereon or securities deposited in respect thereof.

(2) Exercise of option.— The customer may exercise such option by a notice to that effect sent by prepaid mail addressed to the dealer at his address for service in Ontario. 1978, c. 47, s. 46.

- (a) he;
- (b) his firm or a partner thereof, or
- (c) the company or a director thereof,

has a direct or indirect interest, if the effect of such sale would, otherwise than unintentionally, be to reduce the amount of such securities in the hands of the dealer or under his control in the ordinary course of business below the amount of such securities that the dealer should be carrying for all customers, any such contract with a customer is, at the option of the customer, voidable and the customer may recover from the dealer all moneys paid with interest thereon or securities deposited in respect thereof.

(2) The customer may exercise such option by a notice to that effect sent by prepaid mail addressed to the dealer at his address for service in Ontario. R.S.O. 1970, c. 426, s. 78.

77.—(1) Where a person, or a partner or employee of a partnership, or a director, officer or employee of a company, after he or the partnership or company has contracted as a person or company registered for trading in securities with any customer to buy and carry upon margin any securities of any person or company either in Canada or elsewhere, and, while such contract continues, sells or causes to be sold securities of the same person or company for any account in which,

- (a) he;
- (b) his firm or a partner thereof; or
- (c) the company or a director thereof,

has a direct or indirect interest, if the effect of such sale would, otherwise than unintentionally, be to reduce the amount of such securities in the hands of the person or company registered for trading in securities or under his control in the ordinary course of business below the amount of such securities that he should be carrying for all customers, any such contract with a customer is, at the option of the customer, void, and the customer may recover from the person or company registered for trading in securities all moneys paid with interest thereon or securities deposited in respect thereof.

(2) The customer may exercise such option by a notice to that effect sent by prepaid mail addressed to the person or company registered for trading in securities at his address for service in Ontario. R.S.O. 1960, c. 363, s. 63, *amended*.

1978

47. Declaration as to short position. — Any person or company who places an order for the sale of a security through an agent acting for him that is a registered dealer and who,

- (a) at the time of placing the order, does not own the security; or
- (b) if acting as agent, knows his principal does not own the security,

shall, at the time of placing the order to sell, declare to his agent that he or his principal, as the case may be, does not own the security. 1978, c. 47, s. 47.

1966

78. Any person or company who places an order for the sale of a security through an agent acting for him that is registered for trading in securities and,

- (a) at the time of placing the order, does not own the security; or
- (b) if acting as agent, knows his principal does not own the security,

shall, at the time of placing the order to sell, declare to his agent that he or his principal, as the case may be, does not own the security.

48(1) Shares in name of registrant not to be voted.—Subject to subsection (4), voting securities of an issuer registered in the name of, (a) a registrant or in the name of his nominee; or

(b) a custodian or in the name of his nominee, where such issuer is a mutual fund that is a reporting issuer,

that are not beneficially owned by the registrant or the custodian, as the case may be, shall not be voted by the registrant or custodian at any meeting of security holders of the issuer.

(2) Forwarding of information by registrant.—Forthwith after receipt of a copy of a notice of a meeting of security holders of an issuer, the registrant or custodian shall, where the name and address of the beneficial owner of securities registered in the name of the registrant or custodian are known, send or deliver to each beneficial owner of such security so registered at the record date for notice of meeting a copy of any notice, financial statement, information circular or other material but the registrant or custodian is not required to send or deliver such material unless the issuer or the beneficial owner of such securities has agreed to pay the reasonable costs to be incurred by the registrant or custodian in so doing.

(3) Copies of information.—At the request of a registrant or custodian, the person or company sending material referred to in subsection (2) shall forthwith furnish to the registrant or custodian, at the expense of the sender, the requisite number of copies of the material.

(4) Voting of shares.—A registrant or custodian shall vote or give a proxy requiring a nominee to vote any voting securities referred to in subsection (1) in accordance with any written voting instructions received from the beneficial owner.

(5) Proxies.—A registrant or custodian shall, if requested in writing by a beneficial owner, give to the beneficial owner or his nominee a proxy enabling the beneficial owner or his nominee to vote any voting securities referred to in subsection (1).

(6) "custodian" defined.—For the purpose of this section, "custodian" means a custodian of securities issued by a mutual fund held for the benefit of plan holders under a custodial agreement or other arrangement. 1978, c. 47, s. 48.

16. Subsection 48 (2) of the said Act is repealed and the following substituted therefor:

(2) Forthwith after receipt of a copy of a notice of a meeting of security holders of an issuer or of a take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular or other similar and relevant material, the registrant or custodian shall, where the name and address of the beneficial owner of securities registered in the name of the registrant or custodian are known, send or delivered to each beneficial owner of such security as registered at the record date for notice of meeting or at the date of the take-over bid or issuer bid a copy of any notice, financial statement, information circular, take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular or other similar and relevant material but the registrant or custodian is not required to send or deliver such material unless the issuer or other sender of the material or the beneficial owner of such securities has agreed to pay the reasonable costs to be incurred by the registrant or custodian in so doing.

1978

48.—(1) Subject to subsection 4, voting securities of an issuer registered in the name of,

- (a) a registrant or in the name of his nominee; or
- (b) a custodian or in the name of his nominee, where such issuer is a mutual fund that is a reporting issuer.

that are not beneficially owned by the registrant or the custodian, as the case may be, shall not be voted by the registrant or custodian at any meeting of security holders of the issuer.

(2) Forthwith after receipt of a copy of a notice of a meeting of security holders of an issuer, the registrant or custodian shall, where the name and address of the beneficial owner of securities registered in the name of the registrant or custodian are known, send or deliver to each beneficial owner of such security so registered at the record date for notice of meeting a copy of any notice, financial statement, information circular or other material but the registrant or custodian is not required to send or deliver such material unless the issuer or the beneficial owner of such securities has agreed to pay the reasonable costs to be incurred by the registrant or custodian in so doing. R.S.O. 1970, c. 425, s. 80 (1), *amended*

(3) At the request of a registrant or custodian, the person or company sending material referred to in subsection 2 shall forthwith furnish to the registrant or custodian, at the expense of the sender, the requisite number of copies of the material.

(4) A registrant or custodian shall vote or give a proxy requiring a nominee to vote any voting securities referred to in subsection 1 in accordance with any written voting instructions received from the beneficial owner.

(5) A registrant or custodian shall, if requested in writing by a beneficial owner, give to the beneficial owner or his nominee a proxy enabling the beneficial owner or his nominee to vote any voting securities referred to in subsection 1. R.S.O. 1970, c. 426, s. 80 (3-5), *amended*.

(6) For the purpose of this section, "custodian" means a custodian of securities issued by a mutual fund held for the benefit of plan holders under a custodial agreement or other arrangement. *New.*

70.—(1) Subject to subsections 3 and 4, shares of a company that are registered in the name of a registrant or in the name of his nominee that are not beneficially owned by the registrant shall not be voted at any meeting of shareholders of the company unless the registrant forthwith after receipt of the material referred to in clause a sends or delivers to each person or company who is the beneficial owner of such shares, at no expense to such person or company,

(a) a copy of the notice of the meeting, the financial statements, the information circular and any other material, other than the form of proxy, sent to shareholders by or on behalf of any person or company for use in connection with the meeting; and

(b) a written request for voting instructions from the beneficial owner which states that, if voting instructions are not received at least twenty-four hours prior to the expiry of the time within which proxies may be deposited with the company as specified in the notice calling the meeting or otherwise or, if not so specified, twenty-four hours prior to the time fixed for holding the meeting, a proxy in respect of such shares may be given or the shares otherwise voted at the meeting at the discretion of the registrant.

(2) A registrant shall not vote or cause to be voted shares registered in his name or in the name of his nominee that he does not beneficially own if he does not know who is the beneficial owner of the shares.

(3) A company shall, at the request of a registrant, forthwith furnish to the registrant at the company's expense the requisite number of copies of the material referred to in clause a of subsection 1.

(4) A registrant shall vote or give a proxy requiring a nominee to vote any shares referred to in subsection 1 in accordance with any written voting instructions received from the beneficial owner.

(5) A registrant shall, if requested by a beneficial owner, give to the beneficial owner or his nominee a proxy enabling the beneficial owner or his nominee to vote any shares referred to in subsection 1.

(6) The failure of a registrant to comply with this section does not affect the validity of any meeting of shareholders or any proceedings taken thereat.

(7) Nothing in this section gives a registrant the right to vote shares that he is otherwise prohibited from voting. *Nota.*

49.(1) Submission of advertising.—The Commission may, after giving the registered dealer an opportunity to be heard, and upon being satisfied that the registered dealer's past conduct with respect to the use of advertising and sales literature affords reasonable grounds for belief that it is necessary for the protection of the public to do so, order that the registered dealer shall deliver to the Commission at least seven days before it is used, copies of all advertising and sales literature which the registered dealer proposes to use in connection with trading in securities.

(2) Interpretation.—For the purposes of this section,

- (a) "advertising" includes television and radio commercials, newspaper and magazine advertisements and all other sales material generally disseminated through the communications media; and
- (b) "sales literature" includes records, videotapes and similar material, written matter and all other material, except preliminary prospectuses and prospectuses, designed for use in a presentation to a purchaser, whether such material is given or shown to him.

(3) Prohibition of advertising.—Where the Commission has issued an order pursuant to subsection (1), the Director may prohibit the use of the advertising and sales literature so delivered or may require that deletions or changes be made prior to its use.

(4) Rescission or variation of order.—Where an order has been made pursuant to subsection (1), the Commission, on application of the registered dealer at any time after the date thereof, may rescind or vary the order where in its opinion it is not contrary to the public interest to do so. 1978, c. 47, s. 49.

49. (1) The Commission may, after giving the registered dealer an opportunity to be heard, and upon being satisfied that the registered dealer's past conduct with respect to the use of advertising and sales literature affords reasonable grounds for belief that it is necessary for the protection of the public to do so, order that the registered dealer shall deliver to the Commission at least seven days before it is used, copies of all advertising and sales literature which the registered dealer proposes to use in connection with trading in securities.

(2) For the purposes of this section,

- (a) "advertising" includes television and radio commercials, newspaper and magazine advertisements and all other sales material generally disseminated through the communications media; and
- (b) "sales literature" includes records, videotapes and similar material, written matter and all other material, except preliminary prospectuses and prospectuses, designed for use in a presentation to a purchaser, whether such material is given or shown to him.

(3) Where the Commission has issued an order pursuant to subsection 1, the Director may prohibit the use of the advertising and sales literature so delivered or may require that deletions or changes be made prior to its use.

(4) Where an order has been made pursuant to subsection 1, the Commission, on application of the registered dealer at any time after the date thereof, may rescind or vary the order where in its opinion it is not contrary to the public interest to do so. *New.*

PART XIII

PROSPECTING SYNDICATES

50.(1) Agreements.— Upon the filing of a prospecting syndicate agreement and the issuance of a receipt therefor by the Director, the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement where,

(a) the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties, or any combination thereof;

(b) the agreement clearly sets out,

(i) the purpose of the syndicate,
(ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,

(iii) the maximum amount, not exceeding 25 per cent of the sale price, that may be charged or taken by a person or company as commission upon the sale of units in the syndicate,

(iv) the maximum amount number of units in the syndicate, not exceeding 33 1/3 per cent of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,

(v) the location of the principal office of the syndicate and that the principal office shall at all times be maintained in Ontario and that the Director and the members of the syndicate shall be notified immediately of any change in the location of the principal office,

(vi) that a person or company holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,

(vii) that after the sale for cash of any issued units of the syndicate no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate that have been sold for cash,

(viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of units, shall be limited to one-third of the total amount received by the treasury of the syndicate from the sale of its units,

50.—(1) Upon the filing of a prospecting syndicate agreement and the issuance of a receipt therefor by the Director, the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement where,

(a) the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties, or any combination thereof;

(b) the agreement clearly sets out,

(i) the purpose of the syndicate,

(ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,

(iii) the maximum amount, not exceeding 25 per cent of the sale price, that may be charged or taken by a person or company as commission upon the sale of units in the syndicate,

(iv) the maximum number of units in the syndicate, not exceeding 33 1/3 per cent of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,

(v) the location of the principal office of the syndicate and that the principal office shall at all times be maintained in Ontario and that the Director and the members of the syndicate shall be notified immediately of any change in the location of the principal office,

(vi) that a person or company holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,

(vii) that after the sale for cash of any issued units of the syndicate no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate that have been sold for cash,

- (ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Director and to each member annually.
- (x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Director and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash.
- (xi) that no securities, other than those of the syndicate's own issue, and no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate other than escrowed units; and
- (c) the agreement limits the capital of the syndicate to a sum not exceeding \$250,000.
- (2) Receipt for filed agreement.—The Director may in his discretion issue a receipt for a prospecting syndicate agreement filed under this section and is not required to determine whether it is in conformity with clauses (1)(a), (b) and (c).
- (3) Application of R.S.O. 1980, c. 371.—After a receipt is issued by the Director for a prospecting syndicate agreement, the requirements of the *Partnerships Registration Act* as to filing do not apply to the prospecting syndicate.
- (4) Prohibition of trading by dealer.—No registered dealer shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal.
- (5) Receipt.—The Director shall not refuse to issue a receipt under subsection (1) without giving the person or company who filed the prospecting syndicate agreement an opportunity to be heard. 1978, c. 47, s. 50.

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- (viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, shall be limited by one-third of the total amount received by the treasury of the syndicate from the sale of its units.
- (ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Director and to each member annually,
- (x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Director and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash,
- (xi) that no securities, other than those of the syndicate's own issue, and no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate other than escrowed units; and
- (c) the agreement limits the capital of the syndicate to a sum not exceeding \$250,000.
- (2) The Director may in his discretion issue a receipt for a prospecting syndicate agreement filed under this section and is not required to determine whether it is in conformity with clauses a, b and c of subsection 1.
- (3) After a receipt is issued by the Director for a prospecting syndicate agreement, the requirements of the *Partnerships Registration Act* as to filing do not apply to the prospecting syndicate.
- (4) No registered dealer shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal. R.S.O. 1970, c. 426, s. 34, amended.
- (5) The Director shall not refuse to issue a receipt under subsection 1 without giving the person or company who filed the prospecting syndicate agreement an opportunity to be heard. *New.*

1970

- 34.**—(1) Upon the filing of a prospecting syndicate agreement and the issuance of a receipt therefor by the Director, the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement.
- (a) where the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties, or any combination thereof;
- (b) where the agreement clearly sets out,
- (i) the purpose of the syndicate,
 - (ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,
 - (iii) the maximum amount, not exceeding 25 per cent of the sale price, that may be charged or taken by a person or company as commission upon the sale of units in the syndicate,
 - (iv) the maximum number of units in the syndicate, not exceeding $33\frac{1}{3}$ per cent of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,
 - (v) the location of the principal office of the syndicate and that the principal office shall at all times be maintained in Ontario and that the Director and the members of the syndicate shall be notified immediately of any change in the location of the principal office,
 - (vi) that a person or company holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,

- (vii) that after the sale for cash of any issued units of the syndicate no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate that have been sold for cash,
- (viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, shall be limited to one-third of the total amount received by the treasury of the syndicate from the sale of its units,
- (ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Director and to each member annually,
- (x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Director and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash,
- (xi) that no securities, other than those of the syndicate's own issue, or no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate other than escrowed units; and
- (c) where the agreement limits the capital of the syndicate to a sum not exceeding \$50,000. 1966, c. 142, s. 34, (1); 1968, c. 123, s. 12 (1-3).
- (2) The Director may in his discretion issue a receipt for any prospecting syndicate agreement filed under this section and is not required to determine whether it is in conformity with clauses a, b and c of subsection 1. 1966, c. 142, s. 34 (2); 1968, c. 123, s. 12 (4).
- (3) After a receipt is issued by the Director for a prospecting syndicate agreement, the requirements of *The Partnerships Legislation Act* as to filing do not apply to the prospecting syndicate. 1966, c. 142, s. 34 (3); 1968, c. 123, s. 12 (5).
- (4) No person or company registered for trading in securities shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal. 1966, c. 142, s. 34 (4).

1968

12.---(1) Subsection 1 of section 34 of *The Securities Act, 1966* is amended by striking out "Registrar" in the second line and inserting in lieu thereof "Director".

(2) Subclause v of clause b of subsection 1 of the said section 34 is amended by striking out "Registrar" in the fourth line and inserting in lieu thereof "Director".

(3) Subclause ix of clause b of subsection 1 of the said section 34 is amended by striking out "Registrar" in the third line and inserting in lieu thereof "Director".

(4) Subsection 2 of the said section 34 is amended by striking out "direct the Registrar to" in the first and second lines, so that the subsection shall read as follows:

(1) The Director may in his discretion issue a receipt for any prospecting syndicate agreement filed under this section and is not required to determine whether it is in conformity with clauses a, b and c of subsection 1.

(5) Subsection 3 of the said section 34 is amended by striking out "Registrar" in the first line and inserting in lieu thereof "Director".

1966

34.—(1) Upon the filing of a prospecting syndicate agreement and the issuance of a receipt therefor by the Registrar, the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement,

(a) where the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties, or any combination thereof;

(b) where the agreement clearly sets out,

(i) the purpose of the syndicate,

(ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,

(iii) the maximum amount, not exceeding 25 per cent of the sale price, that may be charged or taken by a person or company as commission upon the sale of units in the syndicate,

(iv) the maximum number of units in the syndicate, not exceeding 33 $\frac{1}{3}$ per cent of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,

(v) the location of the principal office of the syndicate and that the principal office shall at all times be maintained in Ontario and that the Registrar and the members of the syndicate shall be notified immediately of any change in the location of the principal office,

(vi) that a person or company holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,

- (vii) that after the sale for cash of issued units of the syndicate no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate that have been sold for cash,
 - (viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, shall be limited by one-third of the total amount received by the treasury of the syndicate from the sale of its units,
 - (ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Registrar and to each member annually,
 - (x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Director and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash,
 - (xi) that no securities, other than those of the syndicate's own issue, or no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate other than escrowed units; and
- (c) where the agreement limits the capital of the syndicate to a sum not exceeding \$50,000.

(2) The Director may in his discretion direct the Registrar to issue a receipt for any prospecting syndicate agreement filed under this section and is not required to determine whether it is in conformity with clauses *a*, *b* and *c* of subsection 1.

(3) After a receipt is issued by the Registrar for a prospecting syndicate agreement, the requirements of *The Partnerships Registration Act* as to filing do not apply to the prospecting syndicate.

(4) No person or company registered for trading in securities shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal. R.S.O. 1960, c. 363, s. 37 (1-4), *amended*.

PART XIV

PROSPECTUSES - DISTRIBUTION

51. "distribution", extended meaning.—To but not including the 15th day of March, 1981, for the purposes of sections 53 to 63, "distribution" means only a distribution that is a distribution to the public, 1978, c. 47, s. 51.

52.(1) Prospectus required.—No person or company shall trade in a security on his own account or on behalf of any other person or company,

- (a) before the 15th day of March, 1981, where such trade would be a distribution to the public of such security;
 - (b) on and after the 15th day of March, 1981, where such trade would be a distribution of such security,
- unless a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director..

(2) Filing without distribution.—A preliminary prospectus and a prospectus may be filed in accordance with this Part to enable the issuer to become a reporting issuer, notwithstanding the fact that no distribution is contemplated. 1978, c. 47, s. 52.

1982

17. Section 51 of the said Act is repealed.

1978

51. To but not including the day eighteen months after this Act comes into force, for the purposes of sections 53 to 63, "distribution" means only a distribution that is a distribution to the public. New.

1982

18. Subsection 52 (1) of the said Act is repealed and the following substituted therefor:

- (1) No person or company shall trade in a security on his own account or on behalf of any other person or company where such trade would be a distribution of such security unless a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director. .

1978

52.— (1) No person or company shall trade in a security on his own account or on behalf of any other person or company,

(a) before the day eighteen months after this Act comes into force where such trade would be a distribution to the public of such security;

(b) on and after the day eighteen months after this Act comes into force, where such trade would be a distribution of such security.

unless a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director. R.S.O. 1970, c. 426, s. 35 (1); 1971, c. 31, s. 6, *amended*.

(2) A preliminary prospectus and a prospectus may be filed in accordance with this Part to enable the issuer to become a reporting issuer, notwithstanding the fact that no distribution is contemplated. *New*.

1971

0. Subsection 1 of section 35 of *The Securities Act* is amended by striking out "primary" in the third line.

1970

35.— (1) No person or company shall trade in a security either on his own account or on behalf of any other person or company where such trade would be in the course of primary distribution to the public of such security until there have been filed with the Commission both a preliminary prospectus and a prospectus in respect of the offering of such security and receipts therefor obtained from the Director. 1966, c. 142, s. 35 (1); 1968, c. 123, s. 13 (1).

185 -

1968

13.—(1) Subsection 1 of section 35 of *The Securities Act, 1906* is amended by striking out "Registrar" in the seventh line and inserting in lieu thereof "Director".

1966

35.—(1) No person or company shall trade in a security either on his own account or on behalf of any other person or company where such trade would be in the course of primary distribution to the public of such security until there have been filed with the Commission both a preliminary prospectus and a prospectus in respect of the offering of such security and receipts therefor obtained from the Registrar.

1978

53.(1) Preliminary prospectus.—A preliminary prospectus shall substantially comply with the requirements of this Act and the regulations respecting the form and content of a prospectus, except that the report or reports of the auditor or accountant required by the regulations need not be included.

(2) Idem.—A preliminary prospectus may exclude information with respect to the price to the underwriter and offering price of any securities and other matters dependent upon or relating to such prices. 1978, c. 47, s. 53.

53. (1) A preliminary prospectus shall substantially comply with the requirements of this Act and the regulations respecting the form and content of a prospectus, except that the report or reports of the auditor or accountant required by the regulations need not be included.

(2) A preliminary prospectus may exclude information with respect to the price to the underwriter and offering price of any securities and other matters dependent upon or relating to such prices. R.S.O. 1970, c. 426, s. 38, *amended*.

1966

38.—(1) A preliminary prospectus shall contain the certifi-
cates required by sections 52 and 53 and shall, subject to
subsection 2, comply as to form and content substantially
with the requirements of this Act and the regulations respect-
ing a prospectus, except that the report or reports of the
auditor or accountant required by section 46 need not be in-
cluded.

(2) A preliminary prospectus may exclude information
with respect to the price to the underwriter and the offering
price to the public and other matters dependent upon or relat-
ing to such prices. *Var.*

1970

54. Receipt for preliminary prospectus.—The Director shall issue a receipt for a preliminary prospectus forthwith upon the filing thereof. 1978, c. 47, s. 54.

35.(2) The Director shall issue a receipt for the preliminary prospectus forthwith upon the filing thereof. 1966, c. 142, s. 35 (2); 1968, c. 123, s. 13 (2)

1968

13(2) Subsection 2 of the said section 35 is amended by striking out "Registrar" in the first line and inserting in lieu thereof "Director".

1966

35 (2) The Registrar shall issue a receipt for the preliminary prospectus forthwith upon the filing thereof. *New.*

55.(1) Prospectus.—A prospectus shall provide full, true, and plain disclosure of all material facts relating to the securities issued or proposed to be distributed and shall comply with the requirements of this Act and the regulations.

(2) Supplemental material.—The prospectus shall contain or be accompanied by such financial statements, reports, or other documents as are required by this Act or the regulations. 1978, c. 47, s. 55.

1978

55. (1) A prospectus shall provide full, true, and plain disclosure of all material facts relating to the securities issued or proposed to be distributed and shall comply with the requirements of this Act and the regulations.

(2) The prospectus shall contain or be accompanied by such financial statements, reports, or other documents as are required by this Act or the regulations. R.S.O. 1970, c. 426, s. 41, *amended*

1966

41.—(1) A prospectus shall provide full, true and plain disclosure of all material facts relating to the security proposed to be issued.

(2) A prospectus shall comply as to form and content with the requirements of this Act and the regulations.

(3) There shall be filed with a prospectus such documents, reports and other material as are required by the regulations. *New.*

1978

56.(1) Amendment to preliminary prospectus on material change.— Subject to subsection (2), where a material adverse change occurs after a receipt is obtained for a preliminary prospectus filed in accordance with subsection 52(1) and before the receipt for the prospectus is obtained or, where a material change occurs after the receipt for the prospectus is obtained but prior to the completion of the distribution under such prospectus, an amendment to such preliminary prospectus or prospectus, as the case may be, shall be filed as soon as practicable and in any event within ten days after the change occurs.

(2) *Idem.*— Where an amendment to a prospectus is filed under subsection (1) for the purpose of distributing securities in addition to the securities previously disclosed in the prospectus or an amendment to the prospectus such additional distribution shall not be proceeded with for a period of ten days after the amendment is filed or, in the event the Commission informs the party filing in writing within ten days of the filing that it objects to the further distribution until such time as a receipt for the amended prospectus is obtained from the Director.

(3) Notice of amendment.—An amendment to a preliminary prospectus referred to in subsection (1) shall, forthwith after it has been filed, be forwarded to each recipient of the preliminary prospectus according to the record maintained under section 66. 1978, c. 47, s. 56.

56. --(1) Subject to subsection 2, where a material adverse change occurs after a receipt is obtained for a preliminary prospectus filed in accordance with subsection 1 of section 52 and before the receipt for the prospectus is obtained or, where a material change occurs after the receipt for the prospectus is obtained but prior to the completion of the distribution under such prospectus, an amendment to such preliminary prospectus or prospectus, as the case may be, shall be filed as soon as practicable and in any event within ten days after the change occurs.

(2) Where an amendment to a prospectus is filed under subsection 1 for the purpose of distributing securities in addition to the securities previously disclosed in the prospectus or an amendment to the prospectus such additional distribution shall not be proceeded with for a period of ten days after the amendment is filed or, in the event the Commission informs the party filing in writing within ten days of the filing that it objects to the further distribution until such time as a receipt for the amended prospectus is obtained from the Director.

(3) An amendment to a preliminary prospectus referred to in subsection 1 shall, forthwith after it has been filed, be forwarded to each recipient of the preliminary prospectus according to the record maintained under section 66. R.S.O. 1970, c. 426, s. 40 (2, 3), *amended*.

40.—(1) Where it appears to the Director that a preliminary prospectus is defective in that it does not comply substantially as to form and content with the requirements of this Act and the regulations respecting a prospectus, he may, without giving notice, order that the trading permitted by subsection 2 of section 36 in the security to which the preliminary prospectus relates shall cease until a revised preliminary prospectus satisfactory to the Director is filed with the Commission and forwarded to each recipient of the defective preliminary prospectus according to the record maintained under section 37.

(2) Where a material adverse change occurs after the date of the preliminary prospectus and before the issuance of a receipt for a prospectus that makes untrue or misleading any statement of a material fact contained in the preliminary prospectus, an amendment to the preliminary prospectus shall be filed with the Commission as soon as practicable, and in any event within ten days from the date the change occurs.

(3) An amendment to a preliminary prospectus, referred to in subsection 2 shall forthwith, after it has been filed with the Commission, be forwarded to each recipient of the preliminary prospectus according to the record maintained under section 37. *New.*

1979

57(1) Certificate by issuer.—Subject to subsection (3) of this section and subsection 62(2), a prospectus filed under subsection 52(1) or subsection 61(1) shall contain a certificate in the following form signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors, any two directors of the issuer, other than the foregoing, duly authorized to sign, and any person or company who is a promoter of the issuer:

The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part XIV of the Securities Act and the regulations thereunder.

1978, c. 47, s. 57(1); 1979, c. 86, s. 4(1).

(2) Idem.—Subject to subsection (3) of this section and subsection 62(2) a prospectus filed under subsection 52(2) shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors, any two directors of the issuer, other than the foregoing, duly authorized to sign, and any person or company who is a promoter of the issuer:

The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities previously issued by the issuer as required by Part XIV of the Securities Act, and the regulations thereunder.

1978, c. 47, s. 57(2); 1979, c. 86, s. 4(2).

(3) Idem.—Where the issuer has only three directors, two of whom are the chief executive officer and the chief financial officer, the certificate may be signed by all the directors of the issuer.

(4) Idem.—Where the Director is satisfied upon evidence or submissions made to him that either, or both of, the chief executive officer or chief financial officer of the issuer is for adequate cause not available to sign a certificate in a prospectus, the Director may permit the certificate to be signed by any other responsible officer or officers of the issuer in lieu of either, or both of, the chief executive officer or chief financial officer.

(5) Idem.—With the consent of the Director, a promoter need not sign the certificate in a prospectus.

(6) Certificate of promoter.—The Director may, in his discretion, require any person or company who was a promoter of the issuer within the two preceding years to sign the certificate required by subsection (1) or (2) subject to such conditions as the Director may consider proper.

(7) Idem.—With the consent of the Director, a promoter may sign a certificate in a prospectus by his agent duly authorized in writing. 1978, c. 47, s. 57(3-7).

865A

1978

4.—(1) Subsection 1 of section 57 of the said Act is amended by inserting after "3" in the first line "of this section and subsection 2 of section 62".

(2) Subsection 2 of the said section 57 is amended by inserting after "3" in the first line "of this section and subsection 2 of section 62".

57.—(1) Subject to subsection 3, a prospectus filed under subsection 1 of section 52 or subsection 1 of section 61 shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors, any two directors of the issuer, other than the foregoing, duly authorized to sign, and any person or company who is a promoter of the issuer:

The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part XIV of The Securities Act, 1978 and the regulations thereunder.

(2) Subject to subsection 3, a prospectus filed under subsection 2 of section 52 shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors, any two directors of the issuer, other than the foregoing, duly authorized to sign, and any person or company who is a promoter of the issuer:

The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities previously issued by the issuer as required by Part XIV of The Securities Act, 1978 and the regulations thereunder.

(3) Where the issuer has only three directors, two of whom are the chief executive officer and the chief financial officer, the certificate may be signed by all the directors of the issuer.

(4) Where the Director is satisfied upon evidence or submissions made to him that either, or both of, the chief executive officer or chief financial officer of the issuer is for adequate cause not available to sign a certificate in a prospectus, the Director may permit the certificate to be signed by any other responsible officer or officers of the issuer in lieu of either, or both of, the chief executive officer or chief financial officer.

(5) With the consent of the Director, a promoter need not sign the certificate in a prospectus.

(6) The Director may, in his discretion, require any person or company who was a promoter of the issuer within the two preceding years to sign the certificate required by subsection 1 or 2 subject to such conditions as the Director may consider proper.

(7) With the consent of the Director, a promoter may sign a certificate in a prospectus by his agent duly authorized in writing. R.S.O. 1970, c. 426, s. 52, *amended*.

1970

52.—(1) Subject to subsection 2, a prospectus shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer and, on behalf of the board of directors, by any two directors of the company, other than the foregoing, duly authorized to sign and by any person or company who is a promoter of the company:

The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part VII of The Securities Act and the regulations thereunder. 1966, c. 142, s. 52 (1); 1968, c. 123, s. 16 (1).

(2) Where the company has only three directors, two of whom are the chief executive officer and the chief financial officer, the certificate may be signed by all the directors of the company. 1968, c. 123, s. 16 (2).

(3) Where the Director is satisfied upon evidence or submissions made to him that either or both of the chief executive officer or chief financial officer of the company is for adequate cause not available to sign a certificate in a prospectus, the Director may permit the certificate to be signed by any other responsible officer or officers of the company in lieu of either or both of the chief executive officer or chief financial officer.

(4) With the consent of the Director, a promoter need not sign a certificate in a prospectus.

(5) The Director may, in his discretion, require any person or company who was a promoter of the company within the two preceding years to sign the certificate required by subsection 1, subject to such conditions as the Director may consider proper.

(6) With the consent of the Director, a promoter may sign a certificate in a prospectus by his agent duly authorized in writing. 1966, c. 142, s. 52 (2-5).

1968

10.—(1) Subsection 1 of section 52 of *The Securities Act, 1966* is amended by inserting at the commencement thereof: "Subject to subsection 1a".

(2) The said section 52 is amended by adding thereto the following subsection:

(1a) Where the company has only three directors, two of whom are the chief executive officer and the chief financial officer, the certificate may be signed by all the directors of the company.

1966

52.—(1) A prospectus shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer and, on behalf of the board of directors, by any two directors of the company, other than the foregoing, duly authorized to sign and by any person or company who is a promoter of the company:

The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part VII of The Securities Act, 1966 and the regulations thereunder.

(2) Where the Director is satisfied upon evidence or submissions made to him that either or both of the chief executive officer or chief financial officer of the company is for adequate cause not available to sign a certificate in a prospectus, the Director may permit the certificate to be signed by any other responsible officer or officers of the company in lieu of either or both of the chief executive officer or chief financial officer.

(3) With the consent of the Director, a promoter need not sign a certificate in a prospectus.

(4) The Director may, in his discretion, require any person or company who was a promoter of the company within the two preceding years to sign the certificate required by subsection 1, subject to such conditions as the Director may deem proper.

(5) With the consent of the Director, a promoter may sign a certificate in a prospectus by his agent duly authorized in writing. *Nen*

58(1) Certificate of underwriter.— Subject to subsection 62(2) where there is an underwriter, a prospectus shall contain a certificate in the following form, signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are in a contractual relationship with the issuer or security holder whose securities are being offered by the prospectus:

To the best of our knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part XIV of the Securities Act and the regulations thereunder.

1978, c. 47, s. 58(1); 1979, c. 86, s. 5.
(2) Idem.— With the consent of the Director, an underwriter may sign a certificate in a prospectus by his agent duly authorized in writing. 1978, c. 47, s. 58(2).

1979

5. Subsection 1 of section 58 of the said Act is amended by adding at the commencement thereof "Subject to subsection 2 of section 62".

1978

58.—(1) Where there is an underwriter, a prospectus shall contain a certificate in the following form, signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are in a contractual relationship with the issuer or security holder whose securities are being offered by the prospectus:

To the best of our knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part XIV of The Securities Act, 1978 and the regulations thereunder.

(2) With the consent of the Director, an underwriter may sign a certificate in a prospectus by his agent duly authorized in writing. R.S.O. 1970, c. 426, s. 53, amended.

1966

53.—(1) A prospectus shall contain a certificate in the following form, signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are in a contractual relationship with the person or company whose securities are being offered by the prospectus:

To the best of our knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part VII of The Securities Act, 1966 and the regulations thereunder.

(2) With the consent of the Director, an underwriter may sign a certification in a prospectus by his agent duly authorized in writing. *New.*

1982

4. Section 59 of the said Act is repealed and the following substituted therefor:

59.—(1) Every prospectus, except a prospectus filed under subsection 52 (2), shall contain a statement of,

(a) the rights given to a purchaser by sections 70 and 126; and

(b) the limits on the time within which an action to enforce a right under section 126 must be brought.

(2) In addition to the requirements of subsection (1), every prospectus of a mutual fund in Ontario shall contain a statement of the rights given to a purchaser by section 134.

(3) Every offering memorandum shall contain a statement of,

(a) the rights given to a purchaser by section 126a and a statement that such rights are in addition to any other right or remedy available at law to the purchaser; and

(b) the limits on the time within which an action to enforce a right under section 126a must be commenced.

1978

59. Every prospectus shall contain a statement of the rights given to a purchaser by sections 70 and 126. R.S.O. 1970, c. 426, ss. 64 (9), 65 (8), *amended*.

1966

64(9) Every prospectus shall contain a statement of the rights given to a purchaser by this section. *New*.

65(8) Every prospectus shall contain a statement of the right of rescission provided by this section. *New*.

6. Subsection 1 of section 60 of the said Act is amended by inserting after "2" in the first line "of this section and subsection 4 of section 62".

1978

60. —(1) Subject to subsection 2, the Director shall issue a receipt for a prospectus filed under this Part unless it appears to him that it is not in the public interest to do so.

(2) The Director shall not issue a receipt for a prospectus if it appears to him that,

- (a) the prospectus or any document required to be filed therewith,
 - (i) fails to comply in any substantial respect with any of the requirements of this Part or the regulations,
 - (ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or
 - (iii) contains a misrepresentation;
- (b) an unconscionable consideration has been paid or given or is intended to be paid or given for promotional purposes or for the acquisition of property;
- (c) the proceeds from the sale of the securities to which the prospectus relates that are to be paid into the treasury of the issuer, together with other resources of the issuer, are insufficient to accomplish the purpose of the issue stated in the prospectus;
- (d) having regard to the financial condition of the issuer or an officer, director, promoter, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the control of the securities of the issuer, the issuer cannot reasonably be expected to be financially responsible in the conduct of its business;

60.(1) Issuance of receipt. — Subject to subsection (2) of this section and subsection 62(4), the Director shall issue a receipt for a prospectus filed under this Part unless it appears to him that it is not in the public interest to do so. 1978, c. 47, s. 60(1); 1979, c. 86, s. 6.

(2) Refusal of receipt. — The Director shall not issue a receipt for a prospectus if it appears to him that,

- (a) the prospectus or any document required to be filed therewith,
 - (i) fails to comply in any substantial respect with any of the requirements of this Part or the regulations,
 - (ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or
 - (iii) contains a misrepresentation;
- (b) an unconscionable consideration has been paid or given or is intended to be paid or given for promotional purposes or for the acquisition of property;
- (c) the proceeds from the sale of the securities to which the prospectus relates that are to be paid into the treasury of the issuer, together with other resources of the issuer, are insufficient to accomplish the purpose of the issue stated in the prospectus;
- (d) having regard to the financial condition of the issuer or an officer, director, promoter, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the control of the issuer, the issuer cannot reasonably be expected to be financially responsible in the conduct of its business;
- (e) the past conduct of the issuer or an officer, director, promoter, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the control of the issuer affords reasonable grounds for belief that the business of the issuer will not be conducted with integrity and in the best interests of its security holders;
- (f) such escrow or pooling agreement as the Director considers necessary or advisable with respect to securities has not been entered into;
- (g) such agreement as the Director considers necessary or advisable to accomplish the objects indicated in the prospectus for the holding in trust of the proceeds payable to the issuer from the sale of the securities pending the distribution of the securities has not been entered into;

- (e) the past conduct of the issuer or in connection with the promotion, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the control of the issuer affords reasonable grounds for belief that the business of the issuer will not be conducted with integrity and in the best interests of its security holders.
- (f) such escrow or pooling agreement as the Director considers necessary or advisable with respect to securities has not been entered into.
- (g) such agreement as the Director considers necessary or advisable to accomplish the objects indicated in the prospectus for the holding in trust of the proceeds payable to the issuer from the sale of the securities pending the distribution of the securities has not been entered into.
- (h) in the case of a prospectus filed by a finance company as defined in the regulations, ...
 - (i) the securities offered are not secured in such manner, on such terms and by such means as are required by the regulations, or

- (h) in the case of a prospectus filed by a finance company, as defined in the regulations,
 - (i) the plan of distribution of the securities offered is not acceptable,
 - (ii) the securities offered are not secured in such manner, on such terms and by such means as are required by the regulations, or
 - (iii) such finance company does not meet such financial and other requirements and conditions as are specified in the regulations; or
- (i) a person or company who has prepared or certified any part of the prospectus or is named as having prepared or certified a report or valuation used in or in connection with a prospectus is not acceptable to him.
- (3) Hearing.—The Director shall not refuse to issue a receipt under subsection (1) or (2) without giving the person or company who filed the prospectus an opportunity to be heard.
- (4) Referral to Commission.—Where it appears to the Director that a preliminary prospectus, *pro forma* prospectus, or prospectus raises a material question involving the public interest under subsection (1) or a new or novel question of interpretation under subsection (2) that might result in the Director refusing to issue a receipt under subsection (1) or (2), the Director may refer the question to the Commission for determination.
- (5) Form of question.—The Director shall state the question in writing setting out the facts upon which the question is based.
- (6) Filing of question.—The question, together with any additional material, shall be lodged by the Director with the Secretary of the Commission, and a copy of the question shall forthwith be served by the Secretary upon any interested person or company.
- (7) Hearing by Commission.—The Commission, after giving the parties an opportunity to be heard, shall consider and determine the question and refer the matter back to the Director for final consideration under subsections (1) and (2).
- (8) Decision of Commission.—Subject to any order of the Supreme Court made under section 9, the decision of the Commission on the question is binding on the Director. 1978, c. 47, s. 60(2-8).

(iii) such finance company does not meet such financial and other requirements and conditions as are specified in the regulations; or

(i) a person or company who has prepared or certified any part of the prospectus or is named as having prepared or certified a report or valuation used in or in connection with a prospectus is not acceptable to him.

(3) The Director shall not refuse to issue a receipt under subsection 1 or 2 without giving the person or company who filed the prospectus an opportunity to be heard. R.S.O. 1970, c. 426, s. 61 (1, 2); 1971, c. 31, s. 16, *amended*

(4) Where it appears to the Director that a preliminary prospectus, *pro forma* prospectus, or prospectus raises a material question involving the public interest under subsection 1 or a new or novel question of interpretation under subsection 2 that might result in the Director refusing to issue a receipt under subsection 1 or 2, the Director may refer the question to the Commission for determination.

(5) The Director shall state the question in writing setting out the facts upon which the question is based.

(6) The question, together with any additional material, shall be lodged by the Director with the Secretary of the Commission, and a copy of the question shall forthwith be served by the Secretary upon any interested person or company.

(7) The Commission, after giving the parties an opportunity to be heard, shall consider and determine the question and refer the matter back to the Director for final consideration under subsections 1 and 2.

(8) Subject to any order of the Supreme Court made under section 9, the decision of the Commission on the question is binding on the Director. *New*

1971

16. Clause *d* of subsection 1 of section 61 of *The Securities Act* is repealed and the following substituted therefor:

- (d) such escrow or pooling agreement as the Director considers necessary or advisable with respect to securities has not been entered into.

1970

61.—(1) The Director may in his discretion issue a receipt for any prospectus filed under this Part, unless it appears to the Director that,

- (a) the prospectus or any document required to be filed therewith,
 - (i) fails to comply in any substantial respect with any of the requirements of this Part or the regulations,
 - (ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or
 - (iii) conceals or omits to state any material facts necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made;
- (b) an unconscionable consideration has been paid or given or is intended to be paid or given for promotional purposes or for the acquisition of property;

- (c) the proceeds from the sale of the securities to which the prospectus relates that are to be paid into the treasury of the company, together with other resources of the company, are insufficient to accomplish the purpose of the issue stated in the prospectus;
 - (d) such escrow or pooling agreement as the Director considers necessary or advisable with respect to securities issued for a consideration other than cash has not been entered into;
 - (e) that such agreement as the Director considers necessary or advisable to accomplish the objects indicated in the prospectus for the holding in trust of the proceeds payable to the company from the sale of the securities pending the distribution of such securities has not been entered into; or
- (f) in the case of a prospectus filed by a finance company,
- (i) the plan of distribution of the securities offered is not acceptable to the Director,
 - (ii) the securities offered are not secured in such manner, on such terms and by such means as are required by the regulations, or
 - (iii) such finance company does not meet such financial and other requirements and conditions as are specified in the regulations. 1966, c. 142, s. 61 (1); 1967, c. 92, s. 1 (1); 1968, c. 123, s. 22.
- (2) The Director shall not make any determination under subsection 1 without making an order or ruling in writing and without giving the person or company who filed the prospectus a prior opportunity to be heard. 1966, c. 142, s. 61 (2).
- (3) The Lieutenant Governor in Council may make such regulations as he considers necessary or appropriate in the public interest pertaining to the matters referred to in clause f of subsection 1 and, without limiting the generality of the foregoing, pertaining to requirements as to paid up capital and surplus, liquidity of assets, ratios of debt to paid up capital and surplus, audit procedures, the furnishing of interim financial statements and the provisions of trust indentures and the qualifications, rights, duties and obligations of trustees thereunder. 1967, c. 92, s. 1 (2).

1968

22. Subsection 1 of section 61 of *The Securities Act, 1966*, as amended by subsection 1 of section 1 of *The Securities Amendment Act, 1967*, is further amended by striking out "direct the Registrar to" in the first and second lines, so that the subsection, exclusive of the clauses, shall read as follows:

- (1) The Director may in his discretion issue a receipt for any prospectus filed under this Part, unless it appears to the Director that,

1967

1.--(1) Subsection 1 of section 61 of *The Securities Act, 1966* is amended by striking out "or" at the end of clause *d*, by adding "or" at the end of clause *e* and by adding thereto the following clause:

- (f) in the case of a prospectus filed by a finance company,
 - (i) the plan of distribution of the securities offered is not acceptable to the Director,
 - (ii) the securities offered are not secured in such manner, on such terms and by such means as are required by the regulations, or
 - (iii) such finance company does not meet such financial and other requirements and conditions as are specified in the regulations.

- (2) The said section 61 is amended by adding thereto the following subsection:

- (3) The Lieutenant Governor in Council may make such regulations as he considers necessary or appropriate in the public interest pertaining to the matters referred to in clause *f* of subsection 1 and, without limiting the generality of the foregoing, pertaining to requirements as to paid up capital and surplus, liquidity of assets, ratios of debt to paid up capital and surplus, audit procedures, the furnishing of interim financial statements and the provisions of trust indentures and the qualifications, rights, duties and obligations of trustees thereunder.

1966

61.---(1) The Director may in his discretion direct the Registrar to issue a receipt for any prospectus filed under this Part, unless it appears to the Director that,

- (a) the prospectus or any document required to be filed therewith,
 - (i) fails to comply in any substantial respect with any of the requirements of this Part or the regulations,
 - (ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or
 - (iii) conceals or omits to state any material facts necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made;
 - (b) an unconscionable consideration has been paid or given or is intended to be paid or given for promotional purposes or for the acquisition of property;
 - (c) the proceeds from the sale of the securities to which the prospectus relates that are to be paid into the treasury of the company, together with other resources of the company, are insufficient to accomplish the purpose of the issue stated in the prospectus;
 - (d) such escrow or pooling agreement as the Director deems necessary or advisable with respect to securities issued for a consideration other than cash has not been entered into; or
 - (e) that such agreement as the Director deems necessary or advisable to accomplish the objects indicated in the prospectus for the holding in trust of the proceeds payable to the company from the sale of the securities pending the distribution of such securities has not been entered into.
- (2) The Director shall not make any determination under subsection 1 without making an order or ruling in writing and without giving the person or company who filed the prospectus a prior opportunity to be heard. *Nزع*

1978

61.(1) Refiling of prospectus.—No distribution of a security to which subsection 52(1) applies shall continue longer than twelve months from the later of either,

- (a) the date of the issuance of the receipt for the preliminary prospectus relating to such security; or
- (b) the date of the last prospectus filed under this section.

as the case may be, which shall be the lapse date, unless a new prospectus that complies with this Part is filed and a receipt therefor is obtained from the Director.

(2) Idem.—A distribution may be continued for a further twelve months if,

- (a) a *pro forma* prospectus prepared in accordance with the regulations is filed not less than thirty days prior to the lapse date of the previous prospectus;
- (b) a prospectus is filed not later than ten days following the lapse date of the previous prospectus; and
- (c) a receipt for the prospectus is obtained from the Director within the twenty days following the lapse date of the previous prospectus.

(3) Idem.—The continued distribution of securities after the lapse date does not contravene subsection (1) unless and until any of the conditions of subsection (2) are not complied with.

(4) Failure to refile.—Subject to any extension granted under subsection (5), all trades completed in reliance upon subsection (2) after the lapse date may be cancelled at the option of the purchaser within ninety days of the purchaser's first knowledge of the failure to comply with such conditions where any of the conditions to the continuation of a distribution under subsection (2) are not complied with.

(5) Extension of time.—The Commission may, upon an application of a reporting issuer, extend, subject to such terms and conditions as it may impose, the times provided by subsection (2) where in its opinion it would not be prejudicial to the public interest to do so. 1978, c. 47, s. 61.

61.—(1) No distribution of a security to which subsection 1 of section 52 applies shall continue longer than twelve months from the later of either,

- (a) the date of the issuance of the receipt for the preliminary prospectus relating to such security; or
- (b) the date of the last prospectus filed under this section,

as the case may be, which shall be the lapse date, unless a new prospectus that complies with this Part is filed and a receipt therefor is obtained from the Director. R.S.O. 1970, c. 426, s. 56, 1971, c. 31, s. 11, *amended*

(2) A distribution may be continued for a further twelve months if,

- (a) a *pro forma* prospectus prepared in accordance with the regulations is filed not less than thirty days prior to the lapse date of the previous prospectus;
- (b) a prospectus is filed not later than ten days following the lapse date of the previous prospectus; and
- (c) a receipt for the prospectus is obtained from the Director within the twenty days following the lapse date of the previous prospectus.

(3) The continued distribution of securities after the lapse date does not contravene subsection 1 unless and until any of the conditions of subsection 2 are not complied with.

(4) Subject to any extension granted under subsection 5, all trades completed in reliance upon subsection 2 after the lapse date may be cancelled at the option of the purchaser within ninety days of the purchaser's first knowledge of the failure to comply with such conditions where any of the conditions to the continuation of a distribution under subsection 2 are not complied with.

(5) The Commission may, upon an application of a reporting issuer, extend, subject to such terms and conditions as it may impose, the times provided by subsection 2 where in its opinion it would not be prejudicial to the public interest to do so. *New*

1971

11. Section 56 of *The Securities Act, 1966*, as amended by section 18 of *The Securities Amendment Act, 1968*, is further amended by striking out "primary" in the first line.

1970

56. Where primary distribution to the public of the security is in progress twelve months from,

- (a) the date of the issuance of the receipt for the preliminary prospectus relating to such security; or
- (b) the date of the last prospectus relating to such security filed under this section,

as the case may be, a new prospectus that complies with this Part shall be filed with the Commission and a receipt therefor obtained from the Director within twenty days from the expiration of the applicable twelve-month period or, subject to such terms and conditions as the Commission may require, within such greater number of days as it may permit. 1966, c. 142, s. 56; 1968, c. 123, s. 18.

1968

18. Section 56 of *The Securities Act, 1966* is amended by striking out "Registrar" in the ninth line and inserting in lieu thereof "Director".

1966

56. Where primary distribution to the public of the security is in progress twelve months from,

- (a) the date of the issuance of the receipt for the preliminary prospectus relating to such security; or
- (b) the date of the last prospectus relating to such security filed under this section,

as the case may be, a new prospectus that complies with this Part shall be filed with the Commission and a receipt therefor obtained from the Registrar within twenty days from the expiration of the applicable twelve-month period or, subject to such terms and conditions as the Commission may require, within such greater number of days as it may permit. R.S.O. 1960, c. 363, ss. 39 (18), 40 (19), *amended*.

20. Subsection 62 (7) of the said Act is amended by striking out "or distribution to the public" in the first line.

1979

7. Section 62 of the said Act is repealed and the following substituted therefor:

62.—(1) A person or company may, if permitted by the regulations, file a short form of preliminary prospectus and a short form of prospectus in the prescribed form under section 52, or a short form of *pro forma* prospectus and a short form of prospectus in the prescribed form under section 61, and any such prospectus that complies with the regulations applicable thereto shall, for the purposes of section 55, be considered to provide sufficient disclosure of all material facts relating to the securities issued or proposed to be distributed under the prospectus.

(2) A short form prospectus may contain one or more forms of certificate to be signed as alternatives to the forms of certificate set out in subsections 1 and 2 of section 57 and subsection 1 of section 58 and, where any such certificate in a short form prospectus is used in accordance with the regulations, it is not necessary to use the alternative certificate required by subsections 1 and 2 of section 57 and subsection 1 of section 58, as the case may be.

(3) A person or company may, if permitted by the regulations, file a summary statement as a separate document in the prescribed form together with a prospectus filed under section 52 or 61.

(4) Where a summary statement is filed with a prospectus, the Director shall not issue a receipt for the prospectus if it appears to him that the summary statement does not comply with the regulations applicable thereto.

(5) A summary statement filed with a prospectus for which a receipt has been issued may be sent or delivered by a dealer to a purchaser of securities instead of a prospectus as required in section 70, and, where a dealer so elects, the provisions of sections 70 and 130 with respect to a prospectus apply with necessary modifications to a summary statement.

(6) Every summary statement sent or delivered to a purchaser shall contain a statement informing the purchaser that a copy of

62(1) Short form prospectus.—A person or company may, if permitted by the regulations, file a short form of preliminary prospectus and a short form of prospectus in the prescribed form under section 52, or a short form of *pro forma* prospectus and a short form of prospectus in the prescribed form under section 61, and any such prospectus that complies with the regulations applicable thereto shall, for the purposes of section 55, be considered to provide sufficient disclosure of all material facts relating to the securities issued or proposed to be distributed under the prospectus.

(2) Alternative certificates.—A short form prospectus may contain one or more forms of certificate to be signed as alternatives to the forms of certificate set out in subsections 57(1) and (2) and subsection 58(1) and, where any such certificate in a short form prospectus is used in accordance with the regulations, it is not necessary to use the alternative certificate required by subsections 57(1) and (2) and subsection 58(1), as the case may be.

(3) Summary statement.—A person or company may, if permitted by the regulations, file a summary statement as a separate document in the prescribed form together with a prospectus filed under section 52 or 61.

(4) Refusal of summary statement.—Where a summary statement is filed with a prospectus, the Director shall not issue a receipt for the prospectus if it appears to him that the summary statement does not comply with the regulations applicable thereto.

(5) Delivery of summary statement.—A summary statement filed with a prospectus for which a receipt has been issued may be sent or delivered by a dealer to a purchaser of securities instead of a prospectus as required in section 70, and, where a dealer so elects, the provisions of sections 70 and 130 with respect to a prospectus apply with necessary modifications to a summary statement.

(6) Delivery of prospectus on request.—Every summary statement sent or delivered to a purchaser shall contain a statement informing the purchaser that a copy of the prospectus which was filed with the summary statement will be provided to the purchaser on request, and each person or company who signs or causes to be signed, at the time may be, the certificate contained in the prospectus shall ensure compliance with any such request.

(7) Summary statement without force and effect.—Where, during the distribution or distribution to the public of a security under a prospectus, an order is made to cease trading in the security, or the receipt issued by the Director for the prospectus is revoked or the prospectus lapses or the use of a prospectus is otherwise prohibited by the

31/Dec 1979, c. 86, s. 7. (8) Liability not affected.—Nothing in this section shall be construed to provide relief from liability arising under section 126 where a misrepresentation is contained in a prescribed short form prospectus and, for the purposes of section 126, where a misrepresentation is contained in a summary statement filed with a prospectus, the misrepresentation shall be deemed to be contained in the prospectus.

otherwise orders.

Act, the regulations or by a decision of the Commission or an order of a court, a summary statement filed with the prospectus shall cease to have force and effect for the purposes of section 70 unless the Director otherwise orders.

the prospectus which was filed with the summary statement will be provided to the purchaser on request, and each person or company who signs or causes to be signed, as the case may be, the prospectus shall ensure compliance with any such order.

(7) Where, during the distribution or distribution to the public of a security under a prospectus, an order is made to cease trading in the security, or the receipt issued by the Director for the prospectus is revoked or the prospectus lapses or the use of a prospectus is otherwise prohibited by the Act, the regulations or by a decision of the Commission or an order of a court, a summary statement filed with the prospectus shall cease to have force and effect for the purposes of section 70 unless the Director otherwise orders.

(8) Nothing in this section shall be construed to provide relief from liability arising under section 126 where a misrepresentation is contained in a prescribed short form prospectus and, for the purposes of section 126, where a misrepresentation is contained in a summary statement filed with a prospectus, the misrepresentation shall be deemed to be contained in the prospectus.

1978

62.—(1) No dealer shall engage in the distribution of a security to which section 52 or 61 is applicable until such dealer has notified the Commission in writing of his intention to engage in such distribution.

(2) Every dealer shall forthwith notify the Commission in writing when he has ceased to engage in the distribution of a security to which section 52 or 61 is applicable. R.S.O. 1970, c. 426, s. 54, amended.

1971

9.—(1) Subsection 1 of section 54 of *The Securities Act, 1966* is amended by striking out "primary" in the first line and in the fifth line.

(2) Subsection 2 of the said section 54 is amended by striking out "primary" in the third line.

1966

54.—(1) No person or company shall engage in the primary distribution to the public of a security to which section 35 or 56 is applicable until such person or company has notified the Commission in writing of his intention to engage in such primary distribution. R.S.O. 1960, c. 363, ss. 39 (2), 40 (2), *amended*.

(2) A person or company shall notify the Commission in writing when, in his opinion, he has ceased to engage in the primary distribution to the public of a security to which section 35 or 56 is applicable.

63(1) Orders to furnish information re distribution to public.— Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain from the issuer of the securities information or material that is necessary for the purpose of complying with this Part or the regulations, the Director may order the issuer of the securities to furnish to the person or company that proposes to make the distribution such information and material as the Director considers necessary for the purposes of the distribution, upon such terms and subject to such conditions as he considers proper, and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with this Part and the regulations.

(2) Idem.— Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain any or all of the signatures to the certificates required by this Act or the regulations, or otherwise to comply with this Part or the regulations, the Director may, upon being satisfied that all reasonable efforts have been made to comply with this Part and the regulations and that no person or company is likely to be prejudicially affected by such failure to comply, make such order waiving any of the provisions of this Part or the regulations as he considers advisable, upon such terms and subject to such conditions as he considers proper. 1978, c. 47, s. 63.

1978

43. (1) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain from the issuer of the securities information or material that is necessary for the purpose of complying with this Part or the regulations, the Director may order the issuer of the securities to furnish to the person or company that proposes to make the distribution such information and material as the Director considers necessary for the purposes of the distribution, upon such terms and subject to such conditions as he considers proper, and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with this Part and the regulations.

(2) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain any or all of the signatures to the certificates required by this Act or the regulations, or otherwise to comply with this Part or the regulations, the Director may, upon being satisfied that all reasonable efforts have been made to comply with this Part and the regulations and that no person or company is likely to be prejudicially affected by such failure to comply, make such order waiving any of the provisions of this Part or the regulations as he considers advisable, upon such terms and subject to such conditions as he considers proper. R.S.O. 1970, c. 426, s. 60, amended.

1971

15.—(1) Subsection 1 of section 60 of *The Securities Act* is amended by striking out "primary" in the second line.

(2) Subsection 2 of the said section 60 is amended by striking out "primary" in the first line.

1966

60.--(1) Where a person or company proposing to make a primary distribution to the public of previously distributed securities of a company is unable to obtain from the company that is the issuer of such securities information or material that is necessary for the purpose of complying with this Part, the Director may order the company that is the issuer of such securities to furnish to the person or company that proposes to make the distribution such information and material as the Director deems necessary for the purposes of the distribution, upon such terms and subject to such conditions as he deems proper, and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with this Act.

(2) Where a person or company proposing to make a primary distribution to the public of previously distributed securities of a company is unable to obtain any or all of the signatures to the certificates required by subsection 1 of section 52 or subsection 1 of section 53, as the case may be, or otherwise to comply with this Part, the Director may, upon being satisfied that all reasonable efforts have been made to comply with this Part and that no person is likely to be prejudicially affected by such failure to comply, make such order waiving any of the provisions of this Part as he deems advisable, upon such terms and subject to such conditions as he deems proper. R.S.O. 1960, c. 363, s. 43, *amended*

1978

PART XV

DISTRIBUTION—GENERALLY

64(1) "waiting period" defined. In this section, "waiting period" means the interval, which shall be at least ten days, between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of a security and the receipt for the prospectus.

(2) Distribution of material during waiting period.—Notwithstanding section 52, but subject to Part XII, it is permissible during the waiting period.

(a) to distribute a notice, circular, advertisement or letter to or otherwise communicate with any person or company identifying the security proposed to be issued, stating the price thereof, if then determined, the name and address of a person or company from whom purchases of the security may be made

and containing such further information as may be permitted or required by the regulations, if every such notice, circular, advertisement, letter or other communication states the name and address of a person or company from whom a preliminary prospectus may be obtained;

(b) to distribute a preliminary prospectus; and

(c) to solicit expressions of interest from a prospective purchaser if, prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to him. 1978, c. 47, s. 64.

64. (1) In this section, "waiting period" means the interval, which shall be at least ten days, between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of a security and the issuance by him of a receipt for the prospectus

(2) Notwithstanding section 52, but subject to Part XII, it is permissible during the waiting period.

(a) to distribute a notice, circular, advertisement or letter to or otherwise communicate with any person or company identifying the security proposed to be issued, stating the price thereof, if then determined, the name and address of a person or company from whom purchases of the security may be made and containing such further information as may be permitted or required by the regulations, if every such notice, circular, advertisement, letter or other communication states the name and address of a person or company from whom a preliminary prospectus may be obtained;

(b) to distribute a preliminary prospectus; and

(c) to solicit expressions of interest from a prospective purchaser if, prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to him. R.S.O. 1970, c. 426, s. 46.

1970

36.—(1) In this section, "waiting period" means the interval, which shall be at least ten days, between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of a security and the issuance by him of a receipt for the prospectus. 1966, c. 142, s. 36 (1); 1968, c. 123, s. 14.

(2) Notwithstanding section 35 but subject to Part VIII, it is permissible during the waiting period,

- (a) to distribute a notice, circular, advertisement or letter to or otherwise communicate with any person or company identifying the security proposed to be issued, stating the price thereof, if then determined, the name and address of a person or company from whom purchases of the security may be made and containing such further information as may be permitted or required by the regulations, if every such notice, circular, advertisement, letter or other communication states the name and address of a person or company from whom a preliminary prospectus may be obtained;
- (b) to distribute a preliminary prospectus; and
- (c) to solicit expressions of interest from a prospective purchaser if, prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to him. 1966, c. 142, s. 36 (2).

1968

14. Subsection 1 of section 36 of *The Securities Act, 1966* is amended by striking out "Registrar" in the third line and inserting in lieu thereof "Director".

1966

36.—(1) In this section, "waiting period" means the interval, which shall be at least ten days, between the issuance by the Registrar of a receipt for a preliminary prospectus relating to the offering of a security and the issuance by him of a receipt for the prospectus.

(2) Notwithstanding section 35 but subject to Part VIII, it is permissible during the waiting period,

(a) to distribute a notice, circular, advertisement or letter to or otherwise communicate with any person or company identifying the security proposed to be issued, stating the price thereof, if then determined, the name and address of a person or company from whom purchases of the security may be made and containing such further information as may be permitted or required by the regulations, if every such notice, circular, advertisement, letter or other communication states the name and address of a person or company from whom a preliminary prospectus may be obtained;

(b) to distribute a preliminary prospectus; and

(c) to solicit expressions of interest from a prospective purchaser if, prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to him. *Arca.*

1978

65. Distribution of preliminary prospectus.—Any dealer distributing a security to which section 64 applies shall, in addition to the requirements of clause c of subsection 2 of section 64, send a copy of the preliminary prospectus to each prospective purchaser who, without solicitation, indicates an interest in purchasing the security and requests a copy of such preliminary prospectus. 1978, c. 47, s. 65.

1971

7. Section 37 of *The Securities Act, 1966* is amended by striking out "primary" in the second line.

1966

37. The underwriter or other person or company distributing a security in the course of primary distribution to the public shall maintain a record available for inspection by the Commission of the names and addresses of all persons and companies to whom a preliminary prospectus has been distributed. *New.*

1978

66. Distribution list.—Any dealer distributing a security to which section 64 applies shall maintain a record of the names and addresses of all persons and companies to whom the preliminary prospectus has been forwarded. 1978, c. 47, s. 66.

66. Any dealer distributing a security to which section 64 applies shall maintain a record of the names and addresses of all persons and companies to whom the preliminary prospectus has been forwarded. *New.*

1978

67. Defective preliminary prospectus.—Where it appears to the Director that a preliminary prospectus is defective in that it does not substantially comply with the requirements of this Act and the regulations as to form and content, he may, without giving notice, order that the trading permitted by subsection 64(2) in the security to which the preliminary prospectus relates shall cease until a revised preliminary prospectus satisfactory to the Director is filed and forwarded to each recipient of the defective preliminary prospectus, according to the record maintained under section 66, 1978, c. 47, s. 67.

67. Where it appears to the Director that a preliminary prospectus is defective in that it does not substantially comply with the requirements of this Act and the regulations as to form and content, he may, without giving notice, order that the trading permitted by subsection 2 of section 64 in the security to which the preliminary prospectus relates shall cease until a revised preliminary prospectus satisfactory to the Director is filed and forwarded to each recipient of the defective preliminary prospectus according to the record maintained under section 66, R.S.O. 1970, c. 42o, s. 40 (1).

1966

40.—(1) Where it appears to the Director that a preliminary prospectus is defective in that it does not comply substantially as to form and content with the requirements of this Act and the regulations respecting a prospectus, he may, without giving notice, order that the trading permitted by subsection 2 of section 36 in the security to which the preliminary prospectus relates shall cease until a revised preliminary prospectus satisfactory to the Director is filed with the Commission and forwarded to each recipient of the defective preliminary prospectus according to the record maintained under section 37.

1978

68. Material given on distribution. — From the date of the issuance by the Director of a receipt for a prospectus relating to a security, a person or company trading in the security in a distribution, either on his own account or on behalf of any other person or company, may distribute the prospectus, any document filed with or referred to in the prospectus and any notice, circular, advertisement or letter of the nature described in clause 64(2)(a) or in the regulations, but shall not distribute any other printed or written material respecting the security that is prohibited by the regulations, 1978, c. 47, s. 68.

68. From the date of the issuance by the Director of a receipt for a prospectus relating to a security, a person or company trading in the security in a distribution, either on his own account or on behalf of any other person or company, may distribute the prospectus, any document filed with or referred to in the prospectus and any notice, circular, advertisement or letter of the nature described in clause 64 of subsection 2 of section 64 or in the regulations, but shall not distribute any other printed or written material respecting the security that is prohibited by the regulations, R.S.O. 1970, c. 426, s. 57; 1971, c. 31, s. 12, *amended*

1971

12. Section 57 of *The Securities Act, 1966*, as amended by section 19 of *The Securities Amendment Act, 1968*, is further amended by striking out "primary" in the third line.

1970

57. From the date of the issuance by the Director of a receipt for a prospectus relating to a security, a person or company trading in the security in the course of primary distribution to the public, either on his own account or on behalf of any other person or company, may distribute the prospectus, any document filed with or referred to in the prospectus and any notice, circular, advertisement or letter of the nature described in clause 64 of subsection 2 of section 36, but shall not distribute any other printed or written material respecting the security that may be prohibited by the regulations, 1966, c. 142, s. 57; 1968, c. 123, s. 19.

1968

19. Section 57 of *The Securities Act, 1966* is amended by striking out "Registrar" in the first line and inserting in lieu thereof "Director".

1966

57. From the date of the issuance by the Registrar of a receipt for a prospectus relating to a security, a person or company trading in the security in the course of primary distribution to the public, either on his own account or on behalf of any other person or company, may distribute the prospectus, any document filed with or referred to in the prospectus and any notice, circular, advertisement or letter of the nature described in clause a of subsection 2 of section 36, but shall not distribute any other printed or written material respecting the security that may be prohibited by the regulations.

1982

21. Subsection 69 (1) of the said Act is amended by striking out "this Part" in the second line and inserting in lieu thereof "Part XIV".

1979

8. Subsection 3 of section 69 of the said Act is amended by striking out "and upon every dealer who has notified the Commission of his intention to engage in the distribution of the securities" in the third and fourth lines.

69(1) Order to cease trading.—¹ Where it appears to the Commission, after the filing of a prospectus under this Part and the issuance of a receipt therefor, that any of the circumstances set out in subsection 60(2) exist, the Commission may order that the distribution of the securities under the prospectus shall cease.

(2) Hearing. — No order shall be made under subsection (1) without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded. 1978, c. 47, s. 69(1, 2).

(3) Notice. — A notice of every order made under this section shall be served upon the issuer of whose securities the prospectus relates, and forthwith upon the receipt of the notice.

- (a) distribution of the securities under prospectus by the person or company named in the order shall cease; and
(b) any receipt issued by the Director for the prospectus is revoked. 1978, c. 47, s. 69(3); 1979, c. 86, s. 8.

69. (1) Where it appears to the Commission, after the filing of a prospectus under this Part and the issuance of a receipt therefor, that any of the circumstances set out in subsection 2 of section 60 exist, the Commission may order that the distribution of the securities under the prospectus shall cease.

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded.

(3) A notice of every order made under this section shall be served upon the issuer to whose securities the prospectus relates and upon every dealer who has notified the Commission of his intention to engage in the distribution of the securities, and forthwith upon the receipt of the notice,

(a) distribution of the securities under prospectus by the person or company named in the order shall cease; and

(b) any receipt issued by the Director for the prospectus is revoked. R.S.O. 1970, c. 426, s. 62; 1971, c. 31, s. 17, *amended*.

17.—(1) Subsection 1 of section 62 of *The Securities Act* is amended by striking out "primary" in the fourth line.

(2) Subsection 3 of the said section 62 is amended by striking out "primary" in the fourth line, and in the first line of clause *a*.

1970

62.—(1) Where it appears to the Commission, after the filing of a prospectus under this Part and the issuance of a receipt therefor, that any of the circumstances set out in section 61 exist, the Commission may order that all trading in the primary distribution to the public of the securities to which the prospectus relates shall cease.

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof. 1966, c. 142, s. 62 (1, 2).

(3) A notice of every order made under this section shall be served upon the company to whose securities the prospectus relates and upon every registrant who has notified the Commission of his intention to engage in the primary distribution to the public of the securities, and forthwith upon the receipt of the notice,

(a) no further trades shall be made in the course of primary distribution to the public of the securities named in the order by any person or company; and

(b) any receipt issued by the Director for the prospectus is *ipso facto* revoked. 1966, c. 142, s. 62 (3); 1968, c. 123, s. 23.

1968

23. Clause b of subsection 3 of section 62 of *The Securities Act, 1966* is amended by striking out "Registrar" in the first line and inserting in lieu thereof "Director".

62.—(1) Where it appears to the Commission, after the filing of a prospectus under this Part and the issuance of a receipt therefor, that any of the circumstances set out in section 61 exist, the Commission may order that all trading in the primary distribution to the public of the securities to which the prospectus relates shall cease.

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof.

(3) A notice of every order made under this section shall be served upon the company to whose securities the prospectus relates and upon every registrant who has notified the Commission of his intention to engage in the primary distribution to the public of the securities, and forthwith upon the receipt of the notice,

(a) no further trades shall be made in the course of primary distribution to the public of the securities named in the order by any person or company; and

(b) any receipt issued by the Registrar for the prospectus is *ipso facto* revoked. R.S.O. 1960, c. 363, s. 46, amended.

1978

70. (1) A dealer not acting as agent of the purchaser who receives an order or subscription for a security offered in a distribution to which subsection 1 of section 52 or section 61 is applicable shall, unless he has previously done so, send by prepaid mail or deliver to the purchaser the latest prospectus and any amendment to the prospectus filed either before entering into an agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after entering into such agreement.

(2) An agreement of purchase and sale referred to in subsection 1 is not binding upon the purchaser, if the dealer from whom the purchaser purchases the security receives written or telegraphic notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after receipt by the purchaser of the latest prospectus and any amendment to the prospectus.

(3) Subsection 2 does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the security referred to in subsection 2, otherwise than to secure indebtedness, before the expiration of the time referred to in subsection 2.

(4) For the purpose of this section, where the latest prospectus and any amendment to the prospectus is sent by prepaid mail, the latest prospectus and any amendment to the prospectus shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed.

(5) The receipt of the latest prospectus or any amendment to the prospectus by a dealer who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a security referred to in subsection 1 shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such latest prospectus and any amendment to the prospectus.

(6) The receipt of the notice referred to in subsection 2 by a dealer who acted as agent of the vendor with respect to the sale of the security referred to in subsection 1 shall, for the purpose of this section, be receipt by the vendor as of the date on which the agent received such notice.

70(1) Obligation to deliver prospectus.—A dealer not acting as agent of the purchaser who receives an order or subscription for a security offered in a distribution to which subsection 52(1) or section 61 is applicable shall, unless he has previously done so, send by prepaid mail or deliver to the purchaser the latest prospectus and any amendment to the prospectus filed either before entering into an agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after entering into such agreement.

(2) Withdrawal from purchase.—An agreement of purchase and sale referred to in subsection (1) is not binding upon the purchaser, if the dealer from whom the purchaser purchases the security receives written or telegraphic notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after receipt by the purchaser of the latest prospectus and any amendment to the prospectus.

(3) Application of subs. (2).—Subsection (2) does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the security referred to in subsection (2), otherwise than to secure indebtedness, before the expiration of the time referred to in subsection (2).

(4) Time of receipt.—For the purpose of this section, where the latest prospectus and any amendment to the prospectus is sent by prepaid mail, the latest prospectus and any amendment to the prospectus shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed.

(5) Receipt of prospectus by agent.—The receipt of the latest prospectus or any amendment to the prospectus by a dealer who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a security referred to in subsection (1) shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such latest prospectus and any amendment to the prospectus.

(6) Receipt of notice by agent.—The receipt of the notice referred to in subsection (2) by a dealer who acted as agent of the vendor with respect to the sale of the security referred to in subsection (1) shall, for the purpose of this section, be receipt by the vendor as of the date on which the agent received such notice.

(7) Dealer as agent.—For the purpose of this section, a dealer shall not be considered to be acting as agent of the purchaser unless the dealer is acting solely as agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale.

(8) Onus of proof.—The onus of proving that the time for giving notice under subsection (2) has expired is upon the dealer from whom the purchaser has agreed to purchase the security. 1978, c. 47, s. 70.

(7) For the purpose of this section, a dealer shall not be considered to be acting as agent of the purchaser unless the dealer is acting solely as agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale.

(8) The onus of proving that the time for giving notice under subsection 2 has expired is upon the dealer from whom the purchaser has agreed to purchase the security. R.S.O. 1970, c. 426, s. 64; 1971, c. 31, s. 19, *amended*.

1971

19. Subsection 1 of section 64 of *The Securities Act* is amended by striking out "primary" in the third line.

1966

63.—(1) A person or company not acting as agent of the purchaser who receives an order or subscription for a security offered in the course of primary distribution to the public to which section 35 or 56 is applicable shall, unless he has previously done so, send by prepaid mail or deliver to the purchaser the prospectus or amended prospectus, whichever is the last required to be filed with the Commission, either before entering into an agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after entering into such agreement.

(2) An agreement of purchase and sale referred to in subsection 1 is not binding upon the purchaser if the person or company from whom the purchaser purchased the security receives written or telegraphic notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after receipt by the purchaser of the prospectus or amended prospectus, whichever is the last required to be filed with the Commission.

- (3) Subsection 2 does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the security referred to in subsection 2, otherwise than to secure indebtedness, before the expiration of the time referred to in subsection 2.
- (4) For the purpose of this section, where a prospectus or amended prospectus is sent by prepaid mail, the prospectus or amended prospectus shall be deemed conclusively to be received in the ordinary course of mail by the person or company to whom it was addressed.
- (5) The receipt of a prospectus or amended prospectus by a person or company who is acting as agent of or who there-after commences to act as agent of the purchaser with respect to the purchase of a security referred to in subsection 1 shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such prospectus or amended prospectus.
- (6) The receipt of the notice referred to in subsection 2 by a person or company who acted as agent of the vendor with respect to the sale of a security referred to in subsection 1 shall, for the purpose of this section, be receipt by the vendor as of the date on which the agent received such notice.
- (7) For the purpose of this section, a person or company shall not be considered to be acting as agent of the purchaser unless the person or company is acting solely as the agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale.
- (8) The onus of proving that the time for giving notice under subsection 2 has expired is upon the person or company from whom the purchaser agreed to purchase the security.
- (9) Every prospectus shall contain a statement of the rights given to a purchaser by this section. *(New)*

PART XVI

EXEMPTIONS FROM PROSPECTUS REQUIREMENTS

71.(1) Prospectus not required.—Subject to the regulations, sections 52 and 61 do not apply to a distribution where,

(a) the purchaser is,

- (i) a bank to which the *Bank Act* (Canada) applies or the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada),
- (ii) a loan corporation or trust company registered under the *Loan and Trust Corporations Act*,
- (iii) an insurance company licensed under the *Insurance Act*,
- (iv) Her Majesty in right of Canada or any province or territory of Canada, or
- (v) any municipal corporation or public board or commission in Canada,

who purchases as principal;

1982

22.—(1) Subclauses 71 (1) (a) (iv) and (v) of the said Act are repealed and the following substituted therefor:

- (iv) a subsidiary of any of the persons or companies referred to in subclause (i), (ii) or (iii) where the bank, loan corporation, trust company or insurance company, as the case may be, owns beneficially all of the voting securities of such subsidiary,
- (v) Her Majesty in right of Canada or any province or territory of Canada, or
- (vi) any municipal corporation or public board or commission in Canada,

1978

71.—(1) Subject to the regulations, sections 52 and 61 do not apply to a distribution where,

(a) the purchaser is,

- (i) a bank to which the *Bank Act* (Canada) applies, or the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada),
- (ii) a loan corporation or trust company registered under the *Loan and Trust Corporations Act*,
- (iii) an insurance company licensed under the *Insurance Act*,
- (iv) Her Majesty in right of Canada or any province or territory of Canada, or
- (v) any municipal corporation or public board or commission in Canada, who purchases as principal;

(b) the trade is an isolated trade by or on behalf of an issuer in a specific security of its own issue, for the issuer's account, where the trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities;

(c) the party purchasing as principal is a company or a person, other than an individual, and is recognized by the Commission as an exempt purchaser;

1979

9. —(1) Clause b of subsection 1 of section 71 of the said Act is repealed and the following substituted therefor

(b) the trade is an isolated trade by or on behalf of an issuer in a specific security of its own issue, for the issuer's account, where the trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities.

1978

(b) the trade is an isolated trade in a specific security by or on behalf of an issuer, for the issuer's account, where such trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities;

1978

(c) the party purchasing as principal is a company or a person, other than an individual, and is recognized by the Commission as an exempt purchaser;

1982

22. (2) Clause 71 (1) (d) of the said Act is repealed and the following substituted therefor:

(d) the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000;

(d) the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000 but this exemption is not available if the seller is,

(i) the issuer or an affiliate of the issuer,

(ii) a person, company or combination of persons or companies having the relationship to the issuer described in subparagraph iii of paragraph 11 of subsection 1 (1), or

(iii) an underwriter who, acting as underwriter, acquired the securities from a person or company described in subclause (i) or (ii),

unless an offering memorandum is sent by prepaid mail or delivered by the seller or a person or company acting on behalf of the seller to the purchaser before an agreement of purchase and sale is entered into with such purchaser.

1978

(d) the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000,

1978

(c) the trade is to a lender, pledgee, mortgagee or other encumbrancer from the holdings of any person, company or combination of persons or companies described in subparagraph iii of paragraph 11 of subsection 1 of section 1 for the purpose of giving collateral for a *bona fide* debt.

(e) the trade is to a lender, pledgee, mortgagee or other encumbrancer from the holdings of any person, company or combination of persons or companies described in subparagraph iii of paragraph 11 of subsection 1(1) for the purpose of giving collateral for a *bona fide* debt;

1982

- (3) Subclause 71 (1) (f) (ii) of the said Act is amended by inserting after "reorganization" in the third and fourth lines "dis-solution".

1978

(f) the trade is made by an issuer,

- (i) in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,
- (ii) in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a *bona fide* reorganization or winding up of the issuer or distribution of its assets for the purpose of winding up its affairs pursuant to the laws of the jurisdiction in which the issuer was incorporated, organized or continued, or
- (iii) in securities of its own issue transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer,

provided that no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer;

- (f) the trade is made by an issuer,
 - (ii) in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,
 - (iii) in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a *bona fide* reorganization or winding up of the issuer or distribution of its assets for the purpose of winding up its affairs pursuant to the laws of the jurisdiction in which the issuer was incorporated, organized or continued, or
 - (iii) in securities of its own issue transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer,
- provided that no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer;

1978

(g) the trade is made by an issuer in a security of a reporting issuer held by it that is distributed by it to holders of its securities as a dividend in specie;

1978

(h) the trade is made by an issuer,

(i) in a right, transferable or otherwise granted by the issuer to holders of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the exercise of the right, or

(ii) in securities of a reporting issuer held by it transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer,

if the issuer has given the Commission written notice stating the date, amount, nature and conditions of the proposed trade, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and either,

(iii) the Commission has not informed the issuer in writing within ten days of the giving of the notice that it objects to the proposed trade, or

(iv) the issuer has delivered to the Commission information relating to the securities that is satisfactory to and accepted by the Commission;

(g) the trade is made by an issuer in a security of a reporting issuer held by it that is distributed by it to holders of its securities as a dividend in specie;

(h) the trade is made by an issuer,

(i) in a right, transferable or otherwise granted by the issuer to holders of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the exercise of the right, or

(ii) in securities of a reporting issuer held by it transferred or issued through the exercise of a right to purchase, convert or exchange previously granted by the issuer,

if the issuer has given the Commission written notice stating the date, amount, nature and conditions of the proposed trade, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and either,

(iii) the Commission has not informed the issuer in writing within ten days of the giving of the notice that it objects to the proposed trade, or

(iv) the issuer has delivered to the Commission information relating to the securities that is satisfactory to and accepted by the Commission.

1982

22. (4) Subclause 71 (1) (i) (ii) of the said Act is repealed and the following substituted therefor:
- (i) a statutory procedure under which one company takes title to the assets of another company which in turn loses its existence by operation of law, or under which one company merges with one or more other companies.

(i) the trade is made in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of that other company in connection with,

- (i) a statutory amalgamation or arrangement, or
- (ii) a statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge into a new company;

1978

- (i) the trade is made in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of that other company in connection with,
- (i) a statutory amalgamation or arrangement, or
- (ii) a statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge into a new company.

1978

- (j) the trade is made in a security of an issuer that is exchanged by or for the account of the issuer with the security holders of another issuer in connection with a take-over bid as defined in Part XIX;
- (k) the trade is made in a security of an issuer in connection with a take-over bid exempted from the requirements of Part XIX by subsection 88(2) or by the Commission under section 99;
- (l) the trade is made by an issuer in a security of its own issue as consideration for a portion of all of the assets of any person or company, if the fair value of the assets so purchased is not less than \$100,000;
- (m) the trade is made by an issuer in a security of its own issue in consideration of mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary;
- (n) the trade is made by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to purchase by expectation of employment or continued employment;
- (o) the trade is made by an issuer in securities of its own issue where the trade is reasonably necessary to facilitate the incorporation or organization of the issuer and the securities are traded for a nominal consideration to not more than five incorporators or organizers unless the statute under which the issuer is incorporated or organized requires the trade to be for a greater consideration or to a larger number of incorporators or organizers, in which case the securities may be traded for that greater consideration or to that larger number of incorporators or organizers;

- (j) the trade is made in a security of an issuer that is exchanged by or for the account of the issuer with the security holders of another issuer in connection with a take-over bid as defined in Part XIX;
- (k) the trade is made in a security of an issuer in connection with a take-over bid exempted from the requirements of Part XIX by subsection 2 of section 88 or by the Commission under section 99;
- (l) the trade is made by an issuer in a security of its own issue as consideration for a portion or all of the assets of any person or company, if the fair value of the assets so purchased is not less than \$100,000;
- (m) the trade is made by an issuer in a security of its own issue in consideration of mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary;
- (n) the trade is made by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to purchase by expectation of employment or continued employment;
- (o) the trade is made by an issuer in securities of its own issue where the trade is reasonably necessary to facilitate the incorporation or organization of the issuer and the securities are traded for a nominal consideration to not more than five incorporators or organizers unless the statute under which the issuer is incorporated or organized requires the trade to be for a greater consideration or to a larger number of incorporators or organizers, in which case the securities may be traded for that greater consideration or to that larger number of incorporators or organizers;

(5) Clause 71 (1) (p) of the said Act is repealed and the following substituted therefor:

(p) the trade is made by an issuer with a view to the sale of securities of its own issue if solicitations are made to not more than fifty prospective purchasers resulting in sales to not more than twenty-five purchasers and,

(i) each purchaser purchases as principal, and all of the purchases are completed within a period of six months of the first purchase except that subsequent sales to the same purchasers may be carried out if made in compliance with written agreements entered into during that six month period,

(ii) each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,

- a. an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer, or
- b. a senior officer or director of the issuer or his spouse, parent, brother, sister or child.

(iii) the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and

(iv) no promoter of the issuer, other than a registered dealer, has acted as a promoter of any other issuer which has traded in securities of its own issue pursuant to the exemption in this clause within the previous twelve months, but an issuer which has relied upon this exemption may not again thereafter rely upon this exemption.

(p) the trade is made by an issuer with a view to the sale of securities of its own issue if solicitations, in all jurisdictions including Ontario, are made to not more than fifty prospective purchasers resulting in sales to not more than twenty-five purchasers in all jurisdictions including Ontario and,

(i) each purchaser purchases as principal, and all of the purchases are completed within a period of six months of the first purchase except that subsequent sales to the same purchasers may be carried out if made in compliance with written agreements entered into during that six-month period,

(ii) each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,

- (A) an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer, or

(B) a senior officer or director of the issuer or of an affiliate of the issuer or a spouse, parent, brother, sister or child of any such director or officer,

- (iii) the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and
- (iv) no promoter of the issuer, other than a registered dealer, has acted as a promoter of any other issuer which has traded in securities of its own issue pursuant to the exemption in this clause within the previous twelve months,

but an issuer which has relied upon this exemption may not again thereafter rely upon this exemption.

(p) the trade is made by an issuer with a view to the sale of securities of its own issue if solicitations are made to not more than fifty prospective purchasers resulting in sales to not more than twenty-five purchasers and,

(i) each purchaser purchases as principal, and all of the purchases are completed within a period of six months of the first purchase except that subsequent sales to the same purchasers may be carried out if made in compliance with written agreements entered into during that six month period,

(ii) each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,

a. an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer, or

b. a senior officer or director of the issuer or his spouse, parent, brother, sister or child,

(iii) the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and

(iv) no promoter of the issuer, other than a registered dealer, has acted as a promoter of any other issuer which has traded in securities of its own issue pursuant to the exemption in this clause within the previous twelve months, but an issuer which has relied upon this exemption may not again thereafter rely upon this exemption;

1978

- (q) the trade is made from one registered dealer to another registered dealer where the registered dealer making the purchase is acting as principal;
- (r) the trade is made between a person or company and an underwriter acting as purchaser or between or among underwriters; or
- (s) the trade is in a commodity futures option or commodity futures contract where such trade is that of a hedger through a dealer, within the meaning of the *Commodity Futures Act*, 1978, c. 47, s. 71(1); 1979, c. 86, s. 9(1).

1982

22. (6) Subsection 71 (1) of the said Act is amended by striking out "or" at the end of clause (r) and by adding thereto the following clauses:

- (t) the trade is made in a security of an issuer where each of the parties to the trade is a person or company who is, as regards such issuer, a person or company referred to in subparagraph iii of paragraph 11 of subsection 1 (1);
- (u) the trade is made by an issuer in securities of its own issue with a promoter of the issuer or by a promoter of an issuer in securities of the issuer with another promoter of the issuer;
- (v) the trade is made in securities of an issuer previously disposed of by the issuer pursuant to the exemption in clause (p) or (r) where each of the parties to the trade is one of the not more than twenty-five purchasers referred to in clause (p) or one of the not more than fifty purchasers referred to in clause (r);
- (w) the trade is made by an issuer of equity securities pursuant to a plan made available by that issuer to all holders of a class of publicly traded securities of the

issuer the last address of whom as shown on the books of the issuer is in Ontario, which plan permits the holder to direct that dividends or interest paid in respect of securities of the issuer's own issue be applied to the purchase from the issuer of equity securities of the issuer's own issue of a class that is publicly traded or any other securities of the issuer which are redeemable at the option of the holder but if the plan is intended to cover a period of more than one year it shall be a requirement of the plan that notice of the right to withdraw from participation in the plan is mailed or delivered to the holder at least annually;

(x) the trade is made by an offeree described in clause 88 (1) (f) in securities which are being disposed of to a person or company making a take-over bid or issuer bid; or

(y) the trade is made by a promoter of an issuer or by an issuer in a government incentive security of the issuer's own issue, if solicitations, in all jurisdictions including Ontario, are made to not more than seventy-five prospective purchasers resulting in sales to not more than fifty purchasers in all jurisdictions including Ontario and,

(i) each purchaser to whom securities are sold in reliance on this exemption has been supplied information identifying every officer and director of the issuer and every promoter thereof and giving the particulars of such of their professional qualifications and associations during the immediately preceding five years as are relevant to the undertaking being financed and indicating which of the directors will be devoting his full time to the affairs of the issuer,

(ii) each purchaser has access to substantially the same information concerning the issuer that a prospectus filed under this Act would provide and is,

(A) an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a person or company who is not a promoter of the issuer whose securities are being offered and who is a registered adviser or a registered dealer, is able to evaluate the prospective investment on the basis of information respecting the

investment presented to him by the issuer, or

(B) a senior officer or director of the issuer or of an affiliate of the issuer or a spouse, parent, brother, sister or child of any such director or officer,

(iii) the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer, and

(iv) each purchaser to whom securities are sold in reliance on this exemption is furnished with an offering memorandum before an agreement of purchase and sale is entered into with such purchaser.

1982

22. (7) Subsection 71 (2) of the said Act is repealed and the following substituted therefor:

(2) For the purpose of subsection (1),

(a) a trust company registered under the *Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee or as agent for accounts fully managed by it; and

(b) a portfolio manager or a person or company who but for the applicability of an exemption under this Act or the regulations would be obliged to be registered as a portfolio manager shall be deemed to be acting as principal when it trades as agent for accounts fully managed by it.

(2a) Two copies of an offering memorandum that is required to be furnished to a purchaser under clause (1) (d) or (v) and two copies of any offering memorandum that is sent or delivered to a purchaser under clause (1) (c) or (p) shall be delivered to the Commission concurrently with or before the date upon which a report referred to in subsection (3) of the Act is filed with the Commission.

(2) Trust companies deemed principals.—For the purpose of subsection (1), a trust company registered under the *Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee or as agent for accounts fully managed by it.

(2) For the purpose of subsection 1, a trust company registered under *The Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee or as agent for accounts fully managed by it.

1982

22. (8) Subsection 71 (3) of the said Act is amended by striking out "*(p) or (q)*" in the second line and inserting in lieu thereof "*(m), (p), (q), (v) or (y)*".

1978

(3) Subject to the regulations, where a trade has been made under clause *a, b, c, d, l, p* or *q* of subsection 1, the vendor shall within ten days file a report prepared and executed in accordance with the regulations, but no report is required where, by a trade under clause *a* of subsection 1, a bank to which the *Bank Act* (Canada) applies or a loan corporation or trust company registered under *The Loan and Trust Corporations Act* acquires from a customer an evidence of indebtedness of the customer or an equity investment in the customer acquired concurrently with an evidence of indebtedness.

(3) Report.—Subject to the regulations, where a trade has been made under clause (1)(a), (b), (c), (d), (l), (p) or (q), the vendor shall within ten days file a report prepared and executed in accordance with the regulations, but no report is required where, by a trade under clause (1)(a), a bank to which the *Bank Act* (Canada) applies or a loan corporation or trust company registered under the *Loan and Trust Corporations Act* acquires from a customer an evidence of indebtedness of the customer or an equity investment in the customer acquired concurrently with an evidence of indebtedness.

(4) First trades deemed distribution. — The first trade in securities previously acquired pursuant to an exemption contained in clause (1)(a), (b), (c) (i), (ii), (m), (p) or (q), other than a further trade exempted by subsection (1), is a distribution, unless,

- (a) the issuer of the security is a reporting issuer and is not in default of any requirement of this Act or the regulations;
- (b) (i) the securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission and comply with the requirements of either clause 388(1)(m) or (n) as the case may be, of the *Insurance Act*, and have been held at least six months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or
- (ii) the securities are bonds, debentures or other evidences of indebtedness issued or guaranteed by an issuer or are preferred shares of an issuer and comply with the requirements of clause 388(1)(k) or (m), as the case may be, of the *Insurance Act* and have been held at least six months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or
- (iii) the securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission or are bonds, debentures or other evidences of indebtedness issued or guaranteed by the reporting issuer whose securities are so listed, and have been held at least one year from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or
- (iv) the securities have been held at least eighteen months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is later; and
- (c) the vendor files a report within ten days prepared and executed in accordance with the regulations,

provided that no unusual effort is made to prepare the market or to create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.

(5) Idem. — The first trade in securities previously acquired under an exemption contained in clause (1)(f), (i), (j), (k) or (n) and the first trade in previously issued securities of a company that has ceased to be a private company, other than a further trade exempted by subsection (1), is a distribution except that where,

- (a) the issuer of the securities is a reporting issuer and has been a reporting issuer for at least twelve months or, in the case of securities acquired under clause (1)(i), one of the amalgamating or merged corporations or one of the continuing corporations has been a reporting issuer for twelve months and the issuer is not in default of any requirement of this Act or the regulations;

(9) Subsections 71 (4), (5) and (6) of the said Act are repealed and the following substituted therefor:

- (4) The first trade in securities previously acquired by the vendor pursuant to a distribution exempted from sections 52 and 61 by clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y) is a distribution unless,
- (a) the issuer of the securities is a reporting issuer and is not in default of any requirement of this Act or the regulations;
- (b) the securities have been held for the applicable hold period from the date of the initial exempt trade or the date the issuer became a reporting issuer whichever is later;
- (c) the vendor files a report within ten days prepared and executed in accordance with the regulations;
- (d) such first trade is not a distribution as defined in subparagraph iii of paragraph 11 of subsection 1 (1); and
- (e) no effort is made to prepare the market or to create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.
- (4a) The first trade in securities previously acquired by the vendor pursuant to a distribution exempted from sections 51 and 62 by subclause (1) (f) (iii), where the right to purchase, convert or exchange was previously acquired in connection with a distribution exempted by clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y) is a distribution unless,
- (a) the issuer of the securities is a reporting issuer and is not in default of any requirement of this Act or the regulations;
- (b) the applicable hold period has elapsed from the date of the trade exempted by clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y) or the date the issuer became a reporting issuer whichever is later;
- (c) the vendor files a report within ten days of the trade prepared and executed in accordance with the regulations;
- (d) when the securities were acquired under subclause (1) (f) (iii) by the vendor, the number or, in the case of debt securities, principal amount, of securities of that

(b) disclosure to the Commission has been made of its exempt trade in the case of a company that has ceased to be a private company the issuer has filed with the Commission such report with respect to its outstanding securities as may be required by the regulations; and

(c) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of the trade.

then such first trade is a distribution only if it is a distribution as defined in subparagraph (iii) of paragraph 11 of subsection 1(1).

(6) Idem.—The first trade in securities previously purchased under an exemption contained in clause (1)(o) or (r), other than a further trade exempted by subsection (1), is a distribution. 1978, c. 47, s. 71(26).

class or kind beneficially owned by, and that in the principal amount of such securities that would be issued or transferred on the exercise of all currently exercisable rights of purchase, conversion or exchange to, the vendor and all vendor-related parties exceeded, in aggregate 5 per cent of the total number or, in the case of debt securities, principal amount, of the outstanding securities of that class or kind, such securities have been held by the vendor for at least sixty days following the date upon which the vendor filed with the Commission, the issuer of the securities and each stock exchange upon which there was then listed and posted securities of any class or kind of the issuer of the securities a notice disclosing,

(i) the fact of the issuance or transfer of the securities under subclause (1) (f) (iii) and particulars thereof, and

(ii) the date upon which the vendor then proposed to first make a trade in such securities pursuant to this subsection, or, if the vendor did not then propose to make such a trade, a statement to that effect;

(e) such first trade is not a distribution as defined in subparagraph iii of paragraph 11 of subsection 1 (1); and

(f) no effort is made to prepare the market or create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.

(5) Subject to subsections (5a) and (5b), the first trade in securities previously acquired by the vendor pursuant to a distribution exempted from sections 52 and 61 by clause (1) (f) other than securities acquired under subclause (iii) thereof in the circumstances described in subsection (4a) or clause (1) (h), (i), (j), (k), (n) or (w) and the first trade in previously issued securities of a company after the company has ceased to be a private company is a distribution except that where,

(a) the issuer of the securities is a reporting issuer and has been a reporting issuer for at least twelve months or, in the case of securities acquired under clause (1) (i), one of the amalgamating or merged companies or one of the continuing companies, has been a reporting issuer for twelve months and, where a person or company in a special relationship with the reporting issuer, as defined

in section 75, is the seller, he or it has reasonable grounds to believe that the issuer is not in default of any requirement of the Act or the regulations;

(b) disclosure to the Commission has been made of its exempt distribution or in the case of a company that has ceased to be a private company the issuer has filed with the Commission such report with respect to its outstanding securities as may be required by the regulations; and

(c) no effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of the trade,

then such first trade is a distribution only if it is a distribution as defined in subparagraph iii of paragraph 11 of subsection 1 (1).

(5a) Notwithstanding subsection (5), the first trade in securities previously acquired by the vendor pursuant to a distribution exempted from sections 52 and 61 by subclause (1) (f) (iii) where, in respect to the right to purchase, convert or exchange, a prospectus was filed by the issuer and a receipt obtained therefor is not a distribution if,

(a) the securities are listed and posted on a stock exchange recognized for this purpose by the Commission;

(b) when the securities were acquired under subclause (1) (f) (iii) by the vendor, the number or, in the case of debt securities, principal amount, of securities of that class or kind beneficially owned by, and that number or principal amount of such securities that would be issued or transferred on the exercise of all currently exercisable rights of purchase, conversion or exchange to, the vendor and all vendor-related parties exceeded in aggregate, 5 per cent of the total number or, in the case of debt securities, principal amount, of the outstanding securities of that class or kind; such securities have been held by the vendor for at least sixty days following the date upon which the vendor filed with the Commission, the issuer of the securities, and each stock exchange upon which there was then listed and posted securities of any class or kind of the issuer of the securities, a notice disclosing,

(i) the fact of the issuance or transfer of the securities under subclause (1) (f) (iii) and particulars thereof, and

(ii) the date upon which the vendor then proposed to first make a trade in such securities pursuant to this subsection, or, if the vendor did not then propose to make such a trade, a statement to that effect;

(c) such first trade is not a distribution as defined in subparagraph iii of paragraph 11 of subsection 1 (1); and

(d) no effort is made to prepare the market or create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.

(5b) Notwithstanding subsection (5), the first trade in securities previously acquired by the vendor pursuant to a distribution exempted from sections 52 and 61 by clause (1) (j) is not a distribution if,

(a) when that exemption was relied upon, a securities exchange take-over bid circular in respect of the securities was filed by the offeror; and

(b) where a person or company in a special relationship with the reporting issuer, as defined in section 75, is the seller, he or it has reasonable grounds to believe that the issuer is not in default of any requirement of the Act or the regulations.

(6) The first trade in securities previously acquired under an exemption contained in,

(a) clause (1) (r) is a distribution;

(b) clause (1) (o) is a distribution unless the purchaser is a promoter of the issuer;

(c) clause (1) (u) or under the exemption in favour of a purchaser who is a promoter of the issuer contained in clause (b) of this subsection is a distribution unless the trade is made in accordance with the conditions and procedures described in clauses (7) (b) and (c).

1978

(4) The first trade in securities previously acquired pursuant to an exemption contained in clause *a, b, c, d, l, m, p* or *q* of subsection 1, other than a further trade exempted by subsection 1, is a distribution, unless,

(a) the issuer of the security is a reporting issuer and is not in default of any requirement of this Act or the regulations;

(b) (i) the securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission and comply with the requirements of either clause *m* or *n* of subsection 1 of section 383 of *The Insurance Act*, and have been held at least six months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or

(ii) the securities are bonds, debentures or other evidences of indebtedness issued or guaranteed by an issuer or are preferred shares of an issuer and comply with the requirements of clause *k* or *m*, as the case may be, of subsection 1 of section 383 of *The Insurance Act* and have been held at least six months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or

(iii) the securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission or are bonds, debentures or other evidences of indebtedness issued or guaranteed by the reporting issuer whose securities are so listed, and have been held at least one year from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is later, or

(iv) the securities have been held at least eighteen months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is later; and

(c) the vendor files a report within ten days prepared and executed in accordance with the regulations,

provided that no unusual effort is made to prepare the market or to create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.

(5) The first trade in securities previously acquired under an exemption contained in clause *f*, *g*, *h* or *i* of subsection 1 and the first trade in previously issued securities of a company that has ceased to be a private company, other than a further trade exempted by subsection 1, is a distribution except that where,

(a) the issuer of the securities is a reporting issuer, and has been a reporting issuer for at least twelve months or, in the case of securities acquired under clause *i* of subsection 1, one of the amalgamating or merged corporations or one of the continuing corporations has been a reporting issuer for twelve months and the issuer is not in default of any requirement of this Act or the regulations;

(b) disclosure to the Commission has been made of its exempt trade or in the case of a company that has ceased to be a private company the issuer has filed with the Commission such report with respect to its outstanding securities as may be required by the regulations; and

(c) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of the trade,

then such first trade is a distribution only if it is a distribution as defined in subparagraph iii of paragraph 11 of subsection 1 of section 1.

(6) The first trade in securities previously purchased under an exemption contained in clause *o* or *p* of subsection 1, other than a further trade exempted by subsection 1, is a distribution.

1982

22. (10) Clauses 71 (7) (b) and (c) of the said Act are repealed and the following substituted therefor:

(b) the issuer of the security is a reporting issuer and has been a reporting issuer for at least eighteen months and is not in default of any requirement of this Act or the regulations and the seller, or, where the distribution is for the purpose of liquidating a *bona fide* debt, the debtor, unless exempted by the regulations.

- (i) has, held the securities or that number or, in the case of debt securities, principal amount, of securities of the class to be distributed for at least six months,
- (ii) has, where he acquired the securities to be distributed pursuant to an exemption contained in clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y), held the securities for the applicable hold periods,
- (iii) has, where he acquired the securities to be distributed pursuant to the exemption under subclause (1) (f) (iii) and the right to purchase, convert or exchange was previously acquired in connection with a distribution exempted by clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y), held the securities until the expiration of the applicable hold period from the date of the trade exempted by clause (1) (a), (b), (c), (d), (l), (m), (p), (q), (v) or (y),
- (iv) files with the Commission and any stock exchange recognized by the Commission for this purpose on which the securities are listed at least seven days and not more than fourteen days prior to the first trade made to carry out the distribution,

(A) a notice of intention to sell in the form prescribed by the regulations disclosing particulars of the control position known to him, the number of securities to be sold and the method of distribution, and

- (B) a declaration signed by each seller as at a date not more than twenty-four hours prior to its filing and prepared and executed in accordance with the regulations and certified as follows:

"The seller for whose account the securities to which this certificate relates are to be sold hereby represents that he has no knowledge of any material change which has occurred in the affairs of the issuer of the securities

71) Prospectus not required.—Sections 52 and 61 do not apply to a distribution within the meaning of subparagraph (iii) of paragraph 11 of subsection 1(1) or by a lender, pledgee, mortgagee or other encumbrancer for the purpose of liquidating a *bona fide* debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt in accordance with clause (1)(e), if,

(a) the distribution is exempted by subsection (1); or

(b) the issuer of the security is a reporting issuer and has been a reporting issuer for at least eighteen months and is not in default of any requirement of this Act or the regulations and the seller, unless exempted by the regulations,

- (i) files with the Commission and any stock exchange recognized by the Commission for this purpose on which the securities are listed at least seven days and not more than fourteen days prior to the first trade made to carry out the distribution.

A. a notice of intention to sell in the form prescribed by the regulations disclosing particulars of the control position known to him, the number of securities to be sold and the method of distribution, and

B. a declaration signed by each seller as at a date not more than twenty-four hours prior to its filing and prepared and executed in accordance with the regulations and certified as follows:

"The seller for whose account the securities to which this certificate relates are to be sold hereby represents that he has no knowledge of any material change which has occurred in the affairs of the issuer of the securities which has not been generally disclosed and reported to the Commission, nor has he any knowledge of any other material adverse information in regard to the current and prospective operations of the issuer which have not been generally disclosed."

and,

- (ii) files within three days after the completion of any trade a report of the trade in the form prescribed under Part XX, provided that the notice required to be filed under subclause (i)(a) and the declaration required to be filed under sub-subclause (i)(b) shall be renewed and filed at the end of six-

ty days after the original date of filing and thereafter at the end of each twenty-eight day period so long as any of the securities specified under the original notice have not been sold or until notice has been filed that the securities so specified or any part thereof are no longer for sale; and

(c) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or other consideration is paid in respect of such trade. 1978, c. 47, s. 71(7); 1979, c. 86, s. 9(2).

which has not been generally disclosed and reported to the Commission, nor has he any knowledge of any other material adverse information in regard to the current and prospective operations of the issuer which have not been generally disclosed",

and,

(v) files within three days after the completion of any trades a report of the trade in the form prescribed under Part XX,

if the notice required to be filed under sub-clause (iv) (A) and the declaration required to be filed under sub-clause (iv) (B) is renewed and filed at the end of sixty days after the original date of filing and thereafter at the end of each twenty-eight day period so long as any of the securities specified under the original notice have not been sold or until notice has been filed that the securities so specified or any part thereof are no longer for sale; and

(c) no effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or other consideration is paid in respect of such trade.

1979

(2) Subclause i of clause b of subsection 7 of the said section 7, amended by striking out "proposed trade" in the fifth line and inserting in lieu thereof "first trade made to carry out distribution"

1978

(7) Sections 52 and 61 do not apply to a distribution within the meaning of subparagraph iii of paragraph 11 of subsection 1 of section 1 or by a lender, pledgee, mortgagee or other encumbrancer for the purpose of liquidating a *bona fide* debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt in accordance with clause e of subsection 4, if,

(a) the distribution is exempted by subsection 1; or

(b) the issuer of the security is a reporting issuer and has been a reporting issuer for at least eighteen months and is not in default of any requirement of this Act or the regulations and the seller, unless exempted by the regulations,

(i) files with the Commission and any stock exchange recognized by the Commission for this purpose on which the securities are listed at least seven days and not more than fourteen days prior to the proposed trade,

a. a notice of intention to sell in the form prescribed by the regulations disclosing particulars of the control position known to him, the number of securities to be sold and the method of distribution, and

b. a declaration signed by each seller as at a date not more than twenty-four hours prior to its filing and prepared and executed in accordance with the regulations and certified as follows:

"The seller for whose account the securities to which this certificate relates are to be sold hereby represents that he has no knowledge of any material change which has occurred in the affairs of the issuer of the securities which has not been generally disclosed and reported to the Commission, nor has he any knowledge of any other material adverse information in regard to the current and prospective operations of the issuer which have not been generally disclosed."

and,

- (ii) files within three days after the completion of any trade a report of the trade in the form prescribed under Part XX,

provided that the notice required to be filed under sub-subclause a of subclause i and the declaration required to be filed under sub-subclause b of subclause i shall be renewed and filed at the end of sixty days after the original date of filing and thereafter at the end of each twenty-eight day period so long as any of the securities specified under the original notice have not been sold or until notice has been filed that the securities so specified or any part thereof are no longer for sale; and

- (c) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or other consideration is paid in respect of such trade. *New.*

22. (11) Section 71 of the said Act is amended by adding thereto the following subsections:

(7a) Notwithstanding subclauses (7) (b) (i), (ii) and (iii), where,

(a) the number or, in the case of debt securities, the principal amount of the securities, distributed pursuant to subsection (7) by the seller, or, where the distribution is for the purpose of liquidating a *bona fide* debt, by the debtor, within the immediately preceding 365 days is 5 per cent or more of the number, or in the case of debt securities, principal amount, of that class of securities beneficially owned by the seller or the debtor, as the case may be; and

(b) such seller or debtor, as the case may be, referred to in clause (a), has acquired any securities of the class to be distributed pursuant to an exemption contained in clause (1) (a), (b), (c), (d), (f), (h), (i), (j), (k), (l), (m), (n), (p), (q), (u), (v), (w) or (y),

no security of that class may be distributed by the seller until all securities of that class have been held for the applicable hold period from the date of the last such initial exempt trade.

(7b) For the purposes of subsection (7a), any securities issued or transferred upon the exercise by the seller or the debtor, as the case may be, of a right of purchase, conversion or exchange shall be deemed to have been held by the seller or the debtor, as the case may be, from the date upon which the securities to which such right of purchase, conversion or exchange attached were first acquired and all securities sold by the seller or the debtor, as the case may be, during the period of 365 days referred to in clause (7a) (a) shall be deemed to have comprised both the number or principal amount, as the case may be, of such securities in fact so sold by the seller or the debtor, as the case may be, and the number or principal amount of the securities which would be issued or transferred upon the exercise of a right of purchase, conversion or exchange attaching to the securities in fact sold.

(7c) Subsection (7a) does not apply where the seller or debtor, as the case may be, acquired the securities of the class to be distributed pursuant to a distribution exempted under,

(a) clause (1) (f), (h), (i), (j), (k) or (w) and made *pro rata* to all holders of securities of the class to be distributed; or

(b) clause (1) (u) and made *pro rata* to all officers and directors.

(8) **Certificate re reporting issuer.**—Subject to subsection (10), for the purpose of determining whether an issuer is a reporting issuer and, if so, whether the reporting issuer is not in default of any requirement of this Act or the regulations, the seller is entitled to apply to the Commission for a certificate issued for this purpose in accordance with section 136 and is entitled to rely on the certificate.

(9) **List re defaulting reporting issuers.**—Subject to subsection (10), for the purpose of determining whether a reporting issuer is not in default of any requirement of this Act or the regulations, the seller is entitled to rely on a list of defaulting reporting issuers which shall be maintained by the Commission for public inspection in its offices during its normal business hours.

(10) **Exception.**—No person or company who knows or ought reasonably to know that a reporting issuer is in default may rely on the certificate or on the list.

(11) **Reporting issuers.**—For the purposes of this section, an issuer shall be deemed to have been a reporting issuer from the date that it met the condition of the appropriate subparagraph of paragraph 38 of subsection 1(1) provided that in each case it is currently in compliance with the requirements of this Act and in the case of qualification under subparagraph iii of paragraph 38 of subsection 1(1) it is also currently listed and posted for trading on any stock exchange in Ontario recognized by the Commission. 1978, c.47, s.71(8-11).

(8) Subject to subsection 10, for the purpose of determining whether an issuer is a reporting issuer and, if so, whether the reporting issuer is not in default of any requirement of this Act or the regulations, the seller is entitled to apply to the Commission for a certificate issued for this purpose in accordance with section 136 and is entitled to rely on the certificate.

(9) Subject to subsection 10, for the purpose of determining whether a reporting issuer is not in default of any requirement of this Act or the regulations, the seller is entitled to rely on a list of defaulting reporting issuers which shall be maintained by the Commission for public inspection in its offices during its normal business hours.

(10) No person or company who knows or ought reasonably to know that a reporting issuer is in default may rely on the certificate or on the list.

(11) For the purposes of this section, an issuer shall be deemed to have been a reporting issuer from the date that it met the condition of the appropriate subclause of paragraph 38 of subsection 1 of section 1 provided that in each case it is currently in compliance with the requirements of this Act and in the case of qualification under subclause iii of paragraph 38 of subsection 1 of section 1 it is also currently listed and posted for trading on any stock exchange in Ontario recognized by the Commission. *N.ca.*

1982

22 (12) In this section,

(a) "hold period" means,

- (i) six months, where used in relation to securities that are listed and posted for trading on a stock exchange recognized for this purpose by the Commission and that comply with the requirements of either clause 388 (1) (m) or (n) of the *Insurance Act*,
- (ii) six months, where used in relation to securities that are bonds, debentures or other evidences of indebtedness issued or guaranteed by an issuer or are preferred shares of an issuer and that comply with the requirements of clause 388 (1) (k) or (m), as the case may be, of the *Insurance Act*,
- (iii) twelve months, where used in relation to securities that are listed and posted for trading on a stock exchange recognized for this purpose by the Commission or are bonds, debentures or other evidences of indebtedness issued or guaranteed by the reporting issuer whose securities of any class or kind are so listed and posted, or are preferred shares of the reporting issuer whose securities of any class or kind are so listed and posted, and
- (iv) eighteen months, where used in relation to securities of a kind not described in subclause (i), (ii) or (iii);

(b) "vendor-related parties" means the associates and affiliates of the vendor and all persons and companies with whom the vendor at the time that the securities to be traded pursuant to subsection (4a) or (5a) were acquired under subclause (1) (f) (iii) intended to act in concert in making trades in securities of any class or kind of the issuer of the securities, other than any registrant engaged on the usual terms solely for the purpose of making such trades.

72.(1) Prospectus not required.— Sections 52 and 61 do not apply to distribution of securities,

- (a) referred to in subsection 34(2) excepting paragraphs 14 and 15 thereof;
- (b) that are listed and posted for trading on any stock exchange recognized for the purpose of this section by the Commission where the securities are distributed through the facilities of the stock exchange pursuant to the rules of the stock exchange and the requirements of the Commission, provided that a statement of material facts, which shall comply as to form and content with the regulations, is filed with and is accepted for filing by the stock exchange and the Commission;
- (c) that are options to sell or purchase securities known as puts and calls or any combination thereof which provide that the holder thereof may sell to or purchase from the writer of the option a specified amount of securities at a specific price, on or prior to a specified date or the occurrence of a specified event, provided,
 - (i) the option has been written by a member of an exchange recognized by the Commission for this purpose or the performance under the option is guaranteed by a member of an exchange recognized by the Commission for this purpose,
 - (ii) the securities that are the subject of the option are listed and posted for trading on an exchange recognized by the Commission for this purpose, and
 - (iii) the option is in the form from time to time prescribed by the regulations; or
- (d) that are exempted by the regulations.

(2) Application of ss. 70 and 126.— Sections 70 and 126 apply with necessary modifications to a distribution under clause (1)(b) as if sections 52 and 61 were applicable thereto, and the statement of material facts referred to in clause (1)(b) shall be deemed conclusively to be a prospectus for the purposes of sections 70 and 126, 1978, c. 47, s. 72.

23. Section 72 of the said Act is amended by adding thereto the following subsection:

- (3) Every statement of material facts referred to in clause (1) (b) shall contain a statement of the rights given to a purchaser by sections 70 and 126 and a statement of the limits on the time within which an action to enforce a right under section 126 must be commenced.

72.—(1) Sections 52 and 61 do not apply to a distribution of securities,

- (a) referred to in subsection 2 of section 34 excepting paragraphs 14 and 15 thereof;
- (b) that are listed and posted for trading on any stock exchange recognized for the purpose of this section by the Commission where the securities are distributed through the facilities of the stock exchange pursuant to the rules of the stock exchange and the requirements of the Commission, provided that a statement of material facts, which shall comply as to form and content with the regulations, is filed with and is accepted for filing by the stock exchange and the Commission;
- (c) that are options to sell or purchase securities known as puts and calls or any combination thereof which provide that the holder thereof may sell to or purchase from the writer of the option a specified amount of securities at a specific price, on or prior to a specified date or the occurrence of a specified event, provided,
 - (i) the option has been written by a member of an exchange recognized by the Commission for this purpose or the performance under the option is guaranteed by a member of an exchange recognized by the Commission for this purpose,

- (ii) the securities that are the subject of the option are listed and posted for trading on an exchange recognized by the Commission for this purpose, and
 - (iii) the option is in the form from time to time prescribed by the regulations; or
 - (d) that are exempted by the regulations.
- (2) Sections 70 and 126 apply *mutatis mutandis* to a distribution under clause b of subsection 1 as if sections 52 and 61 were applicable thereto, and the statement of material facts referred to in clause b of subsection 1 shall be deemed conclusively to be a prospectus for the purposes of sections 70 and 126. *New.*

1979

10. Subsection 1 of section 73 of the said Act is repealed and the following substituted therefor:

- (1) The Commission may, upon the application of an interested person or company, rule that any trade, intended trade, security, person or company is not subject to section 24 or 52 where it is satisfied that to do so would not be prejudicial to the public interest, and may impose such terms and conditions as are considered necessary.

1978

73.—(1) The Commission may, upon the application of an interested person or company, rule that an intended trade is not subject to section 24 or 52 where it is satisfied that to do so would not be prejudicial to the public interest, and may impose such terms and conditions as are considered necessary. 1971, c. 31, s. 14, *part, amended.*

(2) Where doubt exists whether a distribution of any security has been concluded or is currently in progress, the Commission may determine the question and rule accordingly.

(3) A decision of the Commission under this section is final and there is no appeal therefrom. 1971, c. 31, s. 14, *part.*

73.(1) Exemption order.—The Commission may, upon the application of an interested person or company, rule that any trade, intended trade, security, person or company is not subject to section 24 or 52 where it is satisfied that to do so would not be prejudicial to the public interest, and may impose such terms and conditions as are considered necessary. 1979, c. 86, s. 10.

(2) Determination of whether distribution has ceased.—Where doubt exists whether a distribution of any security has been concluded or is currently in progress, the Commission may determine the question and rule accordingly.

(3) Ruling final.—A decision of the Commission under this section is final and there is no appeal therefrom. 1978, c. 47, s. 73(2.3).

1-4. Section 59 of *The Securities Act* is repealed and the following substituted therefor:

59. (1) The Commission, where in its opinion to do so would not be prejudicial to the public interest, upon the application of an interested party, may rule that, subject to such terms or conditions as the Commission may impose, a trade or an intended trade in a security shall be deemed not to be a distribution to the public.
- (2) Where the Commission determines under subsection 1 that a trade or an intended trade would not be a distribution to the public of the security, the Commission may rule that registration is not required in respect of such trade.
- (3) Where doubt exists whether a distribution to the public of any security has been concluded or is currently in progress, the Commission may determine the question and rule accordingly.
- (4) A ruling of the Commission under this section is final and there is no appeal therefrom.

1970

59.—(1) Where doubt exists whether a trade proposed or intended to be made in a security would be in the course of primary distribution to the public of the security, the Commission may, upon the application of an interested party, determine whether the proposed or intended trade would be in the course of primary distribution to the public of the security and rule accordingly, and such ruling is final and there is no appeal therefrom. 1966, c. 142, s. 59 (1).

(2) Where, upon an application under subsection 1, the Commission is satisfied that,

- (a) the number of securities is not substantial in amount in relation to the holdings of the offeror or proposed offeror; or
- (b) the proposed purchaser is acquiring the security or securities for investment purposes with reasonable knowledge of the affairs of the issuer,

and, in the opinion of the Commission, to do so would not be prejudicial to the public interest, the Commission may rule that, subject to such terms or conditions as the Commission may impose, the trade or intended trade shall be deemed not to be a primary distribution to the public and the ruling of the Commission is final and there is no appeal therefrom. 1968, c. 123, s. 21 (1).

(3) Where the Commission determines under subsection 1 or 2 that a proposed or intended trade would not be in the course of primary distribution to the public of the security, the Commission may rule that registration is not required in respect of such trade. 1966, c. 142, s. 59 (2); 1968, c. 123, s. 21 (2).

(4) Where doubt exists whether a primary distribution to the public of any security has been concluded or is currently in progress, the Commission may determine the question and rule accordingly, and such ruling is final and there is no appeal therefrom. 1966, c. 142, s. 59 (3).

1968

21.---(1) Section 59 of *The Securities Act, 1966* is amended by adding thereto the following subsection:

(1a) Where, upon an application under subsection 1, the Commission is satisfied that,

- (a) the number of securities is not substantial in amount in relation to the holdings of the offeror or proposed offeror; or
- (b) the proposed purchaser is acquiring the security or securities for investment purposes with reasonable knowledge of the affairs of the issuer,

and, in the opinion of the Commission, to do so would not be prejudicial to the public interest, the Commission may rule that, subject to such terms or conditions as the Commission imposes, the trade or intended trade shall be deemed not to be a primary distribution to the public and the ruling of the Commission is final and there is no appeal therefrom.

(2) Subsection 2 of the said section 59 is amended by inserting after "1" in the first line "or 1a", so that the subsection shall read as follows:

(2) Where the Commission determines under subsection 1 or 1a that a proposed or intended trade won't not be in the course of primary distribution to the public of the security, the Commission may rule that registration is not required in respect of such trade.

1966

59.—(1) Where doubt exists whether a trade proposed or intended to be made in a security would be in the course of primary distribution to the public of the security, the Commission may, upon the application of an interested party, determine whether the proposed or intended trade would be in the course of primary distribution to the public of the security and rule accordingly, and such ruling is final and there is no appeal therefrom.

(2) Where the Commission determines under subsection 1 that a proposed or intended trade would not be in the course of primary distribution to the public of the security, the Commission may rule that registration is not required in respect of such trade.

(3) Where doubt exists whether a primary distribution to the public of any security has been concluded or is currently in progress, the Commission may determine the question and rule accordingly, and such ruling is final and there is no appeal therefrom. R.S.O. 1960, c. 363, s. 42, *amended*.

24. Clause 74 (3) (b) of the said Act is amended by striking out "persons with knowledge of the material change have" in the sixth and seventh lines and inserting in lieu thereof "any person or company with knowledge of the material change has".

1978

74.--(1) Subject to subsection 3, where a material change occurs in the affairs of a reporting issuer, it shall forthwith issue and file a press release authorized by a senior officer disclosing the nature and substance of the change.

(2) Subject to subsection 3, the reporting issuer shall file a report of such material change in accordance with the regulations as soon as practicable and in any event within ten days of the date on which the change occurs.

(3) Where,

(a) in the opinion of the reporting issuer, the disclosure required by subsections 1 and 2 would be unduly detrimental to the interests of the reporting issuer; or

(b) the material change consists of a decision to implement a change made by senior management of the issuer who believe that confirmation of the decision by the board of directors is probable and senior management of the issuer has no reason to believe that persons with knowledge of the material change have made use of such knowledge in purchasing or selling securities of the issuer,

the reporting issuer may, in lieu of compliance with subsection 1, forthwith file with the Commission the report required under subsection 2 marked "confidential" together with written reasons for non-disclosure.

(4) Where a report has been filed with the Commission under subsection 3, the reporting issuer shall advise the Commission in writing where it believes the report should continue to remain confidential within ten days of the date of filing of the initial report and every ten days thereafter until the material change is generally disclosed in the manner referred to in subsection 1 or, if the material change consists of a decision of the type referred to in clause b of subsection 3, until that decision has been rejected by the board of directors of the issuer. *New.*

PART XVII

CONTINUOUS DISCLOSURE

74.(1) Publication of material change.—Subject to subsection (3), where a material change occurs in the affairs of a reporting issuer, it shall forthwith issue and file a press release authorized by a senior officer disclosing the nature and substance of the change.

(2) Report of material change.—Subject to subsection (3), the reporting issuer shall file a report of such material change in accordance with the regulations as soon as practicable and in any event within ten days of the date on which the change occurs.

(3) Idem.—Where,

(a) in the opinion of the reporting issuer, the disclosure required by subsections (1) and (2) would be unduly detrimental to the interests of the reporting issuer; or

(b) the material change consists of a decision to implement a change made by senior management of the issuer who believe that confirmation of the decision by the board of directors is probable and senior management of the issuer has no reason to believe that persons with knowledge of the material change have made use of such knowledge in purchasing or selling securities of the issuer,

the reporting issuer may, in lieu of compliance with subsection (1), forthwith file with the Commission the report required under subsection (2) marked "confidential" together with written reasons for non-disclosure.

(4) Idem.—Where a report has been filed with the Commission under subsection (3), the reporting issuer shall advise the Commission in writing where it believes the report should continue to remain confidential within ten days of the date of filing of the initial report and every ten days thereafter until the material change is generally disclosed in the manner referred to in subsection (1) or, if the material change consists of a decision of the type referred to in clause (3)(b), until that decision has been rejected by the board of directors of the issuer. 1978, c.47, s. 74.

1982

75(1) Trading where undisclosed change.—No person or company in a special relationship with a reporting issuer shall.

(a) purchase or sell securities of the reporting issuer with the knowledge of a material fact or material change in the affairs of the reporting issuer that he or it knew or ought reasonably to have known had not been generally disclosed; or

(b) inform, other than in the necessary course of business, another person or company about a fact or change which he knows is a material fact or material change before the material fact or material change has been generally disclosed.

(2) Exception.—No purchaser or vendor shall be found to have contravened clause (1)(a) if such purchaser or vendor proves that he did not make use of knowledge of the material fact or material change in purchasing or selling the securities.

(3) Interpretation.—For the purposes of this section, a person or company is in a special relationship with a reporting issuer where,

(a) the person or company is an insider or an affiliate of the reporting issuer;

(b) the person is a director, officer or employee of the reporting issuer or of a company that is an insider or an affiliate of the reporting issuer;

(c) the person or company has engaged, is engaging in or proposes to engage in any business or professional activities with or on behalf of the reporting issuer and thereby has acquired knowledge of the material fact or material change; or

(d) the person or company is an associate of the reporting issuer or of any person or company referred to in clause (a), (b) or (c). 1978, c. 47, s. 75.

25.—(1) Clause 75 (1) (b) of the said Act is repealed and the following substituted therefor:

(b) inform, other than in the necessary course of business, another person or company about a fact or change that he or it knew or ought reasonably to have known was a material fact or material change and which he or it knew or ought reasonably to have known had not been generally disclosed.

(2) Clause 75 (3) (b) of the said Act is amended by striking out "a company" in the second line and inserting in lieu thereof "an issuer".

(3) Subsection 75 (3) of the said Act is amended by striking out "or" at the end of clause (c), by inserting "or" at the end of clause (d) and by adding thereto the following clause:

(e) the person or company has acquired knowledge of the material fact or material change from a person or company referred to in clause (a), (b), (c) or (d) and knew or ought reasonably to have known that the person or company communicating the knowledge is a person or company referred to in clause (a), (b), (c) or (d).

1978
75.—(1) No person or company in a special relationship with a reporting issuer shall,

(a) purchase or sell securities of the reporting issuer with the knowledge of a material fact or material change in the affairs of the reporting issuer that he or it knew or ought reasonably to have known had not been generally disclosed; or

(b) inform, other than in the necessary course of business, another person or company about a fact or change which he knows is a material fact or material change before the material fact or material change has been generally disclosed.

(2) No purchaser or vendor shall be found to have contravened clause 2 of subsection 1 if such purchaser or vendor proves that he did not make use of knowledge of the material fact or material change in purchasing or selling the securities.

(3) For the purposes of this section, a person or company is in a special relationship with a reporting issuer where

- (a) the person or company is an insider or an affiliate of the reporting issuer;
- (b) the person is a director, officer or employee of the reporting issuer or of a company that is an insider or an affiliate of the reporting issuer;
- (c) the person or company has engaged, is engaging in or proposes to engage in any business or professional activities with or on behalf of the reporting issuer and thereby has acquired knowledge of the material fact or material change; or
- (d) the person or company is an associate of the reporting issuer or of any person or company referred to in clause a, b or c. *Nr.*

1982

26. The said Act is further amended by adding thereto the following section:

75a.—(1) No person or company that has the intention of making a take-over bid or issuer bid, other than a take-over bid effected in reliance on an exemption under clause 88 (2) (b), (d) or (e) or an issuer bid effected in reliance on an exemption under clause 88 (3) (d) or (e) shall inform, other than in the necessary course of business, another person or company about such intention which the first mentioned person or company knew or ought reasonably to have known had not been generally disclosed.

(2) No person or company in a special relationship with a person or company that has the intention of making a take-over bid or issuer bid, other than a take-over bid effected in reliance on an exemption under clause 88 (2) (b), (d) or (e) or an issuer bid effected in reliance on an exemption under clause 88 (3) (d) or (e), shall inform, other than in the necessary course of business, another person or company about such intention which the first mentioned person or company knew or ought reasonably to have known had not been generally disclosed.

(3) For the purpose of this section, a person or company is in a special relationship with another person or company where the first mentioned person or company is,

- (a) a person or company that is an insider or an affiliate of the second mentioned person or company;
- (b) a director, officer or employee of the second mentioned person or company or of a person or company that is an insider or an affiliate of the second mentioned person or company;
- (c) a person or company that has engaged, is engaging in or proposes to engage in any business or professional activities with, or on behalf of, the second mentioned person or company and thereby has acquired knowledge of the intention to make a take-over bid or issuer bid change;
- (d) a person or company that is an associate of the second mentioned person or company or of any person or company referred to in clause (a), (b) or (c); or
- (e) a person or company that has acquired knowledge of the intention to make a take-over bid or issuer bid from a person or company referred to in clause (a), (b), (c) or (d) and knew or ought reasonably to have known that the person or company communicating the knowledge is a person or company referred to in clause (a), (b), (c) or (d).

1978

76.- (1) Every reporting issuer that is not a mutual fund shall file within sixty days of the date to which it is made up an interim financial statement.

- (a) for the three-month period that commenced on the date of incorporation or organization and for each of the two subsequent three-month periods during its first financial year, if the reporting issuer has not completed a financial year; or
- (b) for the three-month period of the current financial year that commenced immediately following the last financial year and for each of the two subsequent three-month periods during the current financial year, including a comparative statement for the corresponding three-month period in the last financial year, if the reporting issuer has completed a financial year.

made up and certified as required by the regulations and in accordance with generally accepted accounting principles. R.S.O. 1970, c. 426, s. 130 (1), *amended*.

(2) Every mutual fund in Ontario shall file within sixty days of the date to which it is made up an interim financial statement.

- (a) for the six-month period that commenced on the date of incorporation or organization if the reporting issuer has not completed a financial year; or
- (b) for the six-month period that commenced immediately after the last financial year, if the reporting issuer has completed a financial year.

made up and certified by the regulations and in accordance with generally accepted accounting principles. *New.*

1979

11. Section 76 of the said Act is repealed and the following substituted therefor:

76.—(1) Every reporting issuer that is not a mutual fund shall file within sixty days of the date to which it is made up an interim financial statement,

(a) where the reporting issuer has not completed its first financial year, for the periods commencing with the beginning of that year and ending nine, six and three months respectively before the date on which that year ends, but no interim financial statement is required to be filed for any period that is less than three months in length;

(b) where the reporting issuer has completed its first financial year, to the end of each of the three-month, six-month and nine-month periods of the current financial year that commenced immediately following the last financial year, including a comparative statement to the end of each of the corresponding periods in the last financial year,

made up and certified as required by the regulations and in accordance with generally accepted accounting principles.

(2) Every mutual fund in Ontario shall file within sixty days of the date to which it is made up an interim financial statement,

(a) where the reporting issuer has not completed its first financial year, for the period commencing with the beginning of that year and ending six months before the date on which that year ends but, if the first financial year is less than six months in length, no interim financial statement is required to be filed;

(b) where the reporting issuer has completed its first financial year, for the six-month period of the current financial year that commenced immediately following the last financial year.

made up and certified as required by the regulations and in accordance with generally accepted accounting principles.

(2) A mutual fund company or an investment company, as defined in the regulations, shall file a statement of changes in net assets for each period that complies with section 124 in lieu of a statement of source and application of funds as required by clause a of subsection 1. 1968, c. 123, s. 36.

(3) The interim financial statement required by subsection 1 may omit either or both of

- (a) the information relating to the comparable period;
- (b) the statement of source and application of funds,

if the reason for the omission or omissions, as the case may be, is set out in the interim financial statement or by way of note thereto.

(4) There shall be stated by way of note to the interim financial statement required by subsection 1 the particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of such statement with the statement for the preceding period or with the interim financial statement for a part of the preceding period, and the effect, if material, of any such change upon the profit or loss for the period covered by the interim financial statement.

(5) For the purpose of subsection 4, a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period or part thereof, even though it did not have a material effect upon the profit or loss for the period covered by the interim financial statement.

(6) The interim financial statement required by subsection 1 shall be sent, within sixty days of the date to which it is made up, by prepaid mail to each shareholder whose latest address as shown on the books of the corporation is in Ontario. 1966, c. 142, s. 129 (2-5).

1968

346. Section 129 of *The Securities Act, 1966* is amended by adding thereto the following subsection:

- (1a) A mutual fund company or an investment company, as defined in the regulations, shall file a statement of changes in net assets for each period that complies with section 123a in lieu of a statement of source and application of funds as required by clause a of subsection 1.

1966

120. — (1) A corporation shall file with the Commission within sixty days of the date to which it is made up a copy of a comparative interim financial statement for the six-month period that commenced on the date of incorporation or, if the corporation has completed a financial year, for the six-month period that commenced immediately after the end of the last completed financial year and for the comparable six-month period, if any, in the twelve months immediately preceding the commencement of the six-month period in respect of which such interim financial statement is issued, made up of,

- (a) a statement of source and application of funds for each period that complies with section 123; and
- (b) sufficient relevant financial information in summary form to present fairly the results of the operations of the corporation for each period, including,

- (i) a statement of sales or gross operating revenue,
- (ii) extraordinary items of income or expense,
- (iii) net income before taxes on income imposed by any taxing authority,
- (iv) taxes on income imposed by any taxing authority, and
- (v) net profit or loss.

(2) The interim financial statement required by subsection 1 may omit either or both of,

- (a) the information relating to the comparable period;
- (b) the statement of source and application of funds,

if the reason for the omission or omissions, as the case may be, is set out in the interim financial statement or by way of note thereto.

(3) There shall be stated by way of note to the interim financial statement required by subsection 1 the particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of such statement with the statement for the preceding period or with the interim financial statement for a part of the preceding period, and the effect, if material, of any such change upon the profit or loss for the period covered by the interim financial statement.

(4) For the purpose of subsection 3, a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period or part thereof, even though it did not have a material effect upon the profit or loss for the period covered by the interim financial statement.

(5) The interim financial statement required by subsection 1 shall be sent, within sixty days of the date to which it is made up, by prepaid mail to each shareholder whose latest address as shown on the books of the corporation is in Ontario.

Ncw.

77.(1) Comparative financial statements.—Every reporting issuer that is not a mutual fund and every mutual fund in Ontario shall file annually within 140 days from the end of its last financial year comparative financial statements relating separately to,

- the period that commenced on the date of incorporation or organization and ended as of the close of the first financial year or, if the reporting issuer or mutual fund has completed a financial year, the last financial year, as the case may be; and
- the period covered by the financial year next preceding the last financial year, if any.

made up and certified as required by the regulations and in accordance with generally accepted accounting principles.

(2) Auditor's report.—Every financial statement referred to in subsection (1) shall be accompanied by a report of the auditor of the reporting issuer or mutual fund prepared in accordance with the regulations.

(3) Auditor's examination.—The auditor of a reporting issuer or mutual fund shall make such examinations as will enable him to make the report required by subsection (2).

(4) "auditor" defined.—For the purposes of this Part, "auditor", where used in relation to the reporting issuer or mutual fund, includes the auditor of the reporting issuer or mutual fund and any other independent public accountant. 1978, c. 47, s. 77.

1978

77.—(1) Every reporting issuer that is not a mutual fund and every mutual fund in Ontario shall file annually within 140 days from the end of its last financial year comparative financial statements relating separately to,

- the period that commenced on the date of incorporation or organization and ended as of the close of the first financial year or, if the reporting issuer or mutual fund has completed a financial year, the last financial year, as the case may be; and

- the period covered by the financial year next preceding the last financial year, if any,

made up and certified as required by the regulations and in accordance with generally accepted accounting principles. R.S.O. 1970, c. 426, s. 120 (1), *amended*.

(2) Every financial statement referred to in subsection 1 shall be accompanied by a report of the auditor of the reporting issuer or mutual fund prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 119 (2), *amended*.

(3) The auditor of a reporting issuer or mutual fund shall make such examinations as will enable him to make the report required by subsection 2. R.S.O. 1970, c. 426, s. 119 (1), *amended*.

(4) For the purposes of this Part, "auditor", where used in relation to the reporting issuer or mutual fund, includes the auditor of the reporting issuer or mutual fund and any other independent public accountant. *New.*

1982

28.—(1) Subsection 77 (2) of the said Act is amended by inserting after "fund" in the third line "in Ontario".

(2) Subsection 77 (3) of the said Act is amended by inserting after "fund" in the first line "in Ontario".

(3) Subsection 77 (4) of the said Act is amended by inserting after "fund" in the second line and in the third line, in each case, "in Ontario".

(4) Section 77 of the said Act is amended by adding thereto the following subsection:

(5) Notwithstanding subsection (1), such financial statements required to be filed under that subsection by a mutual fund in Ontario for the period referred to in clause (1) (a) as are prescribed by the regulations need not include comparative statements for the period referred to in clause (1) (b).

1970

119.—(1) The auditor of a corporation shall make such examination as will enable him to make the reports referred to in subsections 2, 3 and 4.

(2) The financial statements referred to in section 120 shall be accompanied by a report of the auditor of the corporation who shall state in his report whether in his opinion the financial statements, other than the part thereof that relates to the period referred to in clause *b* of subsection 1 of section 120, referred to therein present fairly the financial position of the corporation and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period. 1966, c. 142, s. 119 (1, 2).

(3) If the financial statements contain a statement of source and application of funds or a statement of changes in net assets, the auditor shall include in his report a statement whether in his opinion, in effect, the statement of source and application of funds or the statement of changes in net assets presents fairly the information shown therein. 1968, c. 123, s. 32.

(4) The auditor in his report shall make such statements as he considers necessary,

- (a) if the corporation's financial statements are not in agreement with its accounting records;
- (b) if the corporation's financial statements are not in accordance with the requirements of this Act;
- (c) if he has not received all the information and explanations that he has required; or
- (d) if proper accounting records have not been kept, so far as appears from his examination. 1966, c. 142, s. 119 (4).

32. Subsection 3 of section 119 of *The Securities Act, 1966* is repealed and the following substituted therefor:

(3) If the financial statements contain a statement of source and application of funds or a statement of changes in net assets, the auditor shall include in his report a statement whether in his opinion, in effect, the statement of source and application of funds or the statement of changes in net assets presents fairly the information shown therein.

1966

119.—(1) The auditor of a corporation shall make such examination as will enable him to make the reports referred to in subsections 2, 3 and 4.

(2) The financial statements referred to in section 120 shall be accompanied by a report of the auditor of the corporation who shall state in his report whether in his opinion the financial statements, other than the part thereof that relates to the period referred to in clause b of subsection 1 of section 120, referred to therein present fairly the financial position of the corporation and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period.

(3) If the financial statements contain a statement of source and application of funds, the auditor shall include in his report a statement whether in his opinion, in effect, the statement of source and application of funds presents fairly the information shown therein.

(4) The auditor in his report shall make such statements as he considers necessary,

(a) if the corporation's financial statements are not in agreement with its accounting records;

(b) if the corporation's financial statements are not in accordance with the requirements of this Act;

(c) if he has not received all the information and explanations that he has required; or

(d) if proper accounting records have not been kept, so far as appears from his examination. *New.*

38. Subsections 3 and 4 of section 120 of *The Securities Act* are repealed.

120.—(1) A corporation shall file with the Commission, within 170 days of the date to which it is made up, comparative financial statements relating separately to,

- (a) the period that commenced on the date of incorporation and ended as of the close of its first financial year or, if the corporation has completed a financial year, the latest completed financial year, as the case may be; and
 - (b) the period covered by the financial year next preceding such latest completed financial year, if any,
- made up of,
- (c) a statement of profit and loss for each period;
 - (d) a statement of surplus for each period;
 - (e) subject to subsection 5, a statement of source and application of funds for each period; and
 - (f) a balance sheet as at the end of each period. 1966, c. 142, s. 120 (1); 1968, c. 123, s. 33 (1).

(2) It is not necessary to designate the financial statements referred to in subsection 1 as the statement of profit and loss, statement of surplus, statement of source and application of funds and balance sheet.

(3) Notwithstanding subsection 1, the financial statements referred to therein may relate only to the latest completed financial year if the reason for the omission of the statements in respect of the financial year next preceding such latest completed financial year is set out in the financial statements or by way of note thereto.

(4) Notwithstanding clause e of subsection 1, the statement of source and application of funds may be omitted if the reason for such omission is set out in the financial statements or by way of note thereto. 1966, c. 142, s. 120 (2-4).

(5) A mutual fund company or an investment company, as defined in the regulations, shall file a statement of changes in net assets for each period, in lieu of a statement of source and application of funds as required by clause e of subsection 1. 1968, c. 123, s. 33 (2).

33.—(1) Clause *e* of subsection 1 of section 120 of *The Securities Act, 1966* is amended by inserting at the commencement thereof "subject to subsection 5", so that the clause shall read as follows:

(*e*) subject to subsection 5, a statement of source and application of funds for each period; and

(2) The said section 120 is amended by adding thereto the following subsection:

(5) A mutual fund company or an investment company, as defined in the regulations, shall file a statement of changes in net assets for each period, in lieu of a statement of source and application of funds as required by clause *e* of subsection 1.

1966

120.—(1) A corporation shall file with the Commission, within 170 days of the date to which it is made up, comparative financial statements relating separately to,

(*a*) the period that commenced on the date of incorporation and ended as of the close of its first financial year or, if the corporation has completed a financial year, the latest completed financial year, as the case may be; and

(*b*) the period covered by the financial year next preceding such latest completed financial year, if any,

made up of,

(*c*) a statement of profit and loss for each period; .

(*d*) a statement of surplus for each period;

(*e*) a statement of source and application of funds for each period; and

(*f*) a balance sheet as at the end of each period.

78. Delivery of financial statements to security holders.—Every financial statement required to be filed pursuant to section 76 or section 77 shall be concurrently sent by the reporting issuer or the mutual fund in Ontario, as the case may be, to each holder of its securities, other than debt instruments, whose latest address as shown on the books of the reporting issuer is in Ontario, but where the reporting issuer is subject to a corresponding requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued then compliance with such corresponding requirement shall be deemed to be compliance with the section. 1978, c. 47, s. 78.

1978

78. Every financial statement required to be filed pursuant to section 76 or section 77 shall be concurrently sent by the reporting issuer or the mutual fund in Ontario, as the case may be, to each holder of its securities, other than debt instruments, whose latest address as shown on the books of the reporting issuer is in Ontario, but where the reporting issuer is subject to a corresponding requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued then compliance with such corresponding requirement shall be deemed to be compliance with this section. *N/a.*

79. Relief against certain requirement.—Upon the application of a reporting issuer or upon the motion of the Commission, the Commission may, where in the opinion of the Commission to do so would not be prejudicial to the public interest, make an order on such terms and conditions as the Commission may impose,

- (a) permitting the omission from the financial statements required to be filed under this Part of,
 - (i) comparative financial statements for particular periods of time;
 - (ii) sales or gross operating revenue where the Commission is satisfied that the disclosure of such information would be unduly detrimental to the interests of the reporting issuer; or
 - (iii) basic earnings per share or fully diluted earnings per share; or
- (b) exempting, in whole or in part, any reporting issuer or class of reporting issuers from a requirement of this Part or the regulations relating to a requirement of this Part,
 - (i) if such requirement conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer or class of reporting issuers is incorporated, organized or continued;
 - (ii) if the reporting issuer or class of reporting issuers ordinarily distributes financial information to holders of its, or their, securities in a form, or at times, different from those required by this Part; or
 - (iii) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing.

79. Upon the application of a reporting issuer or upon the motion of the Commission, the Commission may, where in the opinion of the Commission to do so would not be prejudicial to the public interest, make an order on such terms and conditions as the Commission may impose

- (a) permitting the omission from the financial statements required to be filed under this Part of,
 - (i) comparative financial statements for particular periods of time;
 - (ii) sales or gross operating revenue where the Commission is satisfied that the disclosure of such information would be unduly detrimental to the interests of the reporting issuer; or
 - (iii) basic earnings per share or fully diluted earnings per share; or
- (b) exempting, in whole or in part, any reporting issuer or class of reporting issuers from a requirement of this Part or the regulations relating to a requirement of this Part,
 - (i) if such requirement conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer or class of reporting issuers is incorporated, organized or continued;
 - (ii) if the reporting issuer or class of reporting issuers ordinarily distributes financial information to holders of its, or their, securities in a form, or at times, different from those required by this Part; or

- (iii) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing. R.S.O. 1970, c. 426, s. 132 (1), amended.

43. Subsection 1 of section 132 of *The Securities Act* is repealed and the following substituted therefor:

(1) Upon the application of a corporation, the Commission may, where in the opinion of the Commission to do so would not be prejudicial to the public interest, make an order on such terms and conditions as the Commission may impose,

(a) permitting the omission of,

(i) financial statements relating separately to the period covered by the financial year next preceding the latest completed financial year referred to in clause *b* of subsection 1 of section 120,

(ii) sales or gross operating revenue referred to in clause *a* of subsection 1 of section 121 or subclause *i* of clause *b* of subsection 1 of section 130 from the statement of profit and loss or the interim financial statement, as the case may be, where the Commission is satisfied that the disclosure of such information would be unduly detrimental to the interests of the corporation,

(iii) the basic earnings per share or fully diluted earnings per share referred to in clauses *k* and *l* of subsection 1 of section 121, or in subclauses *vi* and *vii* of clause *b* of subsection 1 of section 130 from the statement of profit and loss or the interim financial statement, as the case may be,

(iv) the information relating to the comparable period referred to in subsection 1 of section 130;

(b) where, in the opinion of the Commission, the corporation is unable to comply with the requirements of section 123, permitting the corporation to file in lieu thereof an alternative statement containing such information, if any, as the Commission considers appropriate;

(c) exempting, in whole or in part, the corporation from the requirements of this Part,

(i) if such a requirement conflicts with a requirement of the laws of the jurisdiction in which the corporation is incorporated, or

(ii) if the laws of the jurisdiction to which the corporation is subject contain substantially similar requirements as contained in this Part, or

(iii) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing.

196c

131.--(1) Upon the application of a corporation, the Commission may,

(a) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction in which a corporation is incorporated; or

(b) if the laws of the jurisdiction to which the corporation is subject contain substantially similar requirements as contained in this Part; or

(c) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as seem to the Commission just and expedient exempting, in whole or in part, the corporation from the requirements of this Part.

(2) A corporation that is subject to this Part

under of subclause i of clause b of section 118 ceases

80.(1) Filing of information circular.— Where the management of a reporting issuer is required to send an information circular under clause 85(1)(a), the reporting issuer shall forthwith file a copy of such information circular certified in accordance with the regulations.

(2) Idem.— In any case where subsection (1) is not applicable, the reporting issuer shall file annually within 140 days from the end of its last financial year a report prepared and certified in accordance with the regulations. 1978, c. 47, s. 80.

81. Filing of documents filed in another jurisdiction.— Where the laws of the jurisdiction in which the reporting issuer was incorporated, organized or continued require the reporting issuer to file substantially the same information in that jurisdiction as is required by this Part, the reporting issuer may comply with the filing requirements of this Part by filing copies of the press release, timely disclosure report, information circular or financial statements and auditor's report, as the case may be, required by that jurisdiction provided such releases, reports, circulars or statements are manually signed or certified in accordance with the regulations. 1978, c. 47, s. 81.

82. Order relieving small reporting issuer.— Upon the application of a reporting issuer that has fewer than fifteen security holders whose latest address as shown on the books of the reporting issuer is in Ontario, the Commission may order, subject to such terms and conditions as it may impose, that the reporting issuer shall be deemed to have ceased to be a reporting issuer where it is satisfied that to do so would not be prejudicial to the public interest. 1978, c. 47, s. 82.

1978

80.—(1) Where the management of a reporting issuer is required to send an information circular under clause *a* of subsection 1 of section 85, the reporting issuer shall forthwith file a copy of such information circular certified in accordance with the regulations.

(2) In any case where subsection 1 is not applicable, the reporting issuer shall file annually within 140 days from the end of its last financial year a report prepared and certified in accordance with the regulations. *New.*

1982

81. Where the laws of the jurisdiction in which the reporting issuer was incorporated, organized or continued require the reporting issuer to file substantially the same information in that jurisdiction as is required by this Part, the reporting issuer may comply with the filing requirements of this Part by filing copies of the press release, timely disclosure report, information circular or financial statements and auditor's report, as the case may be, required by that jurisdiction provided such releases, reports, circulars or statements are manually signed or certified in accordance with the regulations. *New.*

1982

29. Section 82 of the said Act is repealed and the following substituted therefor:

82. Upon the application of,

- (a) a reporting issuer that has fewer than fifteen security holders whose latest address as shown on the books of the reporting issuer is in Ontario; or
- (b) an issuer that is a reporting issuer by virtue of having filed a prospectus and obtained a receipt therefor under this Act but which reporting issuer has not, as at the date immediately following the lapse date of the prospectus as defined in subsection 61 (1), distributed any of the securities offered by the prospectus,

the Commission may order, subject to such terms and conditions as it may impose, that the reporting issuer shall be deemed to have ceased to be a reporting issuer where it is satisfied that to do so would not be prejudicial to the public interest.

1978

82. Upon the application of a reporting issuer that has fewer than fifteen security holders whose latest address as shown on the books of the reporting issuer is in Ontario, the Commission may order, subject to such terms and conditions as it may impose, that the reporting issuer shall be deemed to have ceased to be a reporting issuer where it is satisfied that to do so would not be prejudicial to the public interest. *N.W.*

1978

83. In this Part,

PROXIES AND PROXY SOLICITATION

83. Interpretation. — In this Part,

- (a) "information circular" means an information circular prepared in accordance with the regulations;
- (b) "solicit" and "solicitation" include,
 - (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
 - (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,
 - (iii) the sending or delivery of a form of proxy or other communication to a security holder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy,
 - (iv) the sending or delivery of a form of proxy to a security holder under section 84, but do not include,
 - (v) the sending or delivery of a form of proxy to a security holder in response to an unsolicited request made by him or on his behalf, or

- (vi) the performance by any person or company of ministerial acts or professional services on behalf of a person or company soliciting a proxy, 1978, c. 47, s. 83.

- (a) "information circular" means an information circular prepared in accordance with the regulations;
- (b) "solicit" and "solicitation" include,
 - (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
 - (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,
 - (iii) the sending or delivery of a form of proxy or other communication to a security holder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy,
 - (iv) the sending or delivery of a form of proxy to a security holder under section 84, but do not include,
 - (v) the sending or delivery of a form of proxy to a security holder in response to an unsolicited request made by him or on his behalf, or
 - (vi) the performance by any person or company of ministerial acts or professional services on behalf of a person or company soliciting a proxy, R.S.O. 1970, c. 426, s. 101 (b), *amended*.

1971

30. - (1) Subclause i of clause a of section 101 of *The Securities Act* is amended by striking out "primary" in the third line.

(2) Subclause iii of clause a of the said section 101 is amended by inserting after "Act" in the third line "or *The Business Corporations Act*", so that the subclause shall read as follows:

(iii) a company incorporated by or under a general or special Act of the Legislature or a company to which Part II of *The Corporations Act* or *The Business Corporations Act* applies, or

1970

101. In this Part,

(a) "corporation" means a company,

(i) that has issued equity shares that on or after the 1st day of May, 1967 are distributed in the course of a primary distribution to the public, in respect of which a prospectus is filed with the Commission and a receipt therefor obtained, or

(ii) any of whose shares are listed and posted for trading on any stock exchange in Ontario recognized by the Commission,

other than,

(iii) a company incorporated by or under a general or special Act of the Legislature or a company to

which Part II of *The Corporations Act* or *The Business Corporations Act* applies, or

- (iv) a bank to which the *Bank Act* (Canada) applies;
- (b) "information circular" means the circular referred to in subsection 1 of section 103;
- (c) "solicit" and "solicitation" include,
 - (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
 - (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,
 - (iii) the sending or delivery of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and
 - (iv) the sending or delivery of a form of proxy to a shareholder under section 102, but do not include,
 - (v) the sending or delivery of a form of proxy to a shareholder in response to an unsolicited request made by him or on his behalf, or
 - (vi) the performance by any person or company of ministerial acts or professional services on behalf of a person or company soliciting a proxy. 1966, c. 142, s. 100, *amended*.

1966

100. In this Part,

(a) "corporation" means a company,

(i) that has issued equity shares that after this Act comes into force are distributed in the course of a primary distribution to the public, in respect of which a prospectus is filed with the Commission and a receipt therefor obtained, or

(ii) any of whose shares are listed and posted for trading on any stock exchange in Ontario recognized by the Commission,

other than,

(iii) a company incorporated by or under a general or special Act of the Legislature or a company to which Part II of *The Corporations Act* applies, or

(iv) a bank to which the *Bank Act* (Canada) applies;

(b) "information circular" means the circular referred to in subsection 1 of section 102;

(c) "solicit" and "solicitation" include:

(i) any request for a proxy whether or not accompanied by or included in a form of proxy,

(ii) any request to execute or not to execute a form of proxy or to revoke a proxy,

(iii) the sending or delivery of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and

(iv) the sending or delivery of a form of proxy to a shareholder under section 101,

but do not include,

(v) the sending or delivery of a form of proxy to a shareholder in response to an unsolicited request made by him or on his behalf, or

(vi) the performance by any person or company of ministerial acts or professional services on behalf of a person or company soliciting a proxy. *New.*

84. Mandatory solicitation of proxies.— Subject to section 87, if the management of a reporting issuer gives or intends to give to holders of its voting securities notice of a meeting, the management shall, concurrently with or prior to giving the notice to the security holders whose latest address as shown on the books of the reporting issuer is in Ontario, send by prepaid mail to each such security holder who is entitled to notice of meeting, at his latest address as shown on the books of the reporting issuer, a form of proxy for use at the meeting that complies with the regulations. 1978, c. 47, s. 84.

1978

84. Subject to section 87, if the management of a reporting issuer gives or intends to give to holders of its voting securities notice of a meeting, the management shall, concurrently with or prior to giving the notice to the security holders whose latest address as shown on the books of the reporting issuer is in Ontario, send by prepaid mail to each such security holder who is entitled to notice of meeting, at his latest address as shown on the books of the reporting issuer, a form of proxy for use at the meeting that complies with the regulations. R.S.O. 1970, c. 426, s. 102 (1), *amended*.

1966

101.—(1) Subject to section 103, if the management of a corporation gives or intends to give to its shareholders notice of a meeting of shareholders, the management shall, concurrently with or prior to giving such notice to shareholders whose last address as shown on the books of the corporation is in Ontario, send by prepaid mail to each such shareholder, who is entitled to vote at such meeting, at his last address as shown on the books of the corporation a form of proxy for use at such meeting that complies with section 104.

1982

85.(1) Information circular.— Subject to subsection (2) and section 87, no person or company shall solicit proxies from holders of its voting securities whose latest address as shown on the books of the reporting issuer is in Ontario unless,

- (a) in the case of a solicitation by or on behalf of the management of a reporting issuer, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each such security holder of the reporting issuer whose proxy is solicited at his latest address as shown on the books of the reporting issuer; or
- (b) in the case of any other solicitation, the person or company making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each such security holder whose proxy is solicited.

(2) Application of subs. (1).— Subsection (1) does not apply to,

- (a) any solicitation, otherwise than by or on behalf of the management of a reporting issuer, where the total number of security holders whose proxies are solicited is not more than fifteen, two or more persons or companies who are the joint registered owners of one or more securities being counted as one security holder;
- (b) any solicitation by a person or company made under section 48; or
- (c) any solicitation by a person or company in respect of securities of which he is the beneficial owner. 1978, c. 47, s. 85.

30.—(1) Clauses 85 (1) (a) and (b) of the said Act are repealed and the following substituted therefor:

- (a) in the case of a solicitation by or on behalf of the management of a reporting issuer, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is communicated to each such security holder of the reporting issuer whose proxy is solicited;
- (b) in the case of any other solicitation, the person or company making the solicitation, concurrently with or prior thereto, communicates an information circular to each such security holder whose proxy is solicited.

(2) Section 85 of the said Act is amended by adding thereto the following sub-sections:

- (3) An information circular required to be communicated under subsection (1) shall be sent to each security holder whose proxy is solicited at his latest address as shown on the books of the reporting issuer by prepaid mail or by personal delivery to that address.

(4) Where the Commission or the Director is of the opinion that it would be impractical to communicate an information circular in the manner required by subsection (3), the Commission or the Director may authorize the communication of the information circular in such manner as it or he considers likely to bring the information circular to the attention of the security holders and an information circular when communicated in the manner so authorized shall be deemed to have been communicated to the security holders.

1978

85.-(1) Subject to sub-section 2 and section 87, no person or company shall solicit proxies from holders of its voting securities whose latest address as shown on the books of the reporting issuer is in Ontario unless,

- (a) in the case of a solicitation by or on behalf of the management of a reporting issuer, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each such security holder of the reporting issuer whose proxy is solicited at his latest address as shown on the books of the reporting issuer; or
- (b) in the case of any other solicitation, the person or company making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each such security holder whose proxy is solicited.

(2) Subsection 1 does not apply to,

- (a) any solicitation, otherwise than by or on behalf of the management of a reporting issuer, where the total number of security holders whose proxies are solicited is not more than fifteen, two or more persons or companies who are the joint registered owners of one or more securities being counted as one security holder;
- (b) any solicitation by a person or company made under section 48; or
- (c) any solicitation by a person or company in respect of securities of which he is the beneficial owner. R.S.O. 1970, c. 426, s. 103 (1.2), *amended*.

102. --(1) Subject to subsection 2 and section 103, no person or company shall solicit proxies from shareholders whose last address as shown on the books of the corporation is in Ontario unless,

(a) in the case of a solicitation by or on behalf of the management of a corporation, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each such shareholder of the corporation whose proxy is solicited at his last address as shown on the books of the corporation; or

(b) in the case of any other solicitation, the person or company making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each such shareholder whose proxy is solicited.

(2) Subsection 1 does not apply to,

(a) any solicitation, otherwise than by or on behalf of the management of a corporation; where the total number of shareholders whose proxies are solicited is not more than fifteen, two or more persons or companies who are the joint registered owners of one or more shares being counted as one shareholder;

(b) any solicitation by a person or company made under section 79; or

(c) any solicitation by a person or company in respect of shares of which he is the beneficial owner.

1978

86. Voting where proxies.—The chairman at a meeting has the right not to conduct a vote by way of ballot on any matter or group of matters in connection with which the form of proxy has provided a means whereby the person or company whose proxy is solicited may specify how such person or company wishes the securities registered in his name to be voted unless,

- (a) a poll is demanded by any security holder present at the meeting in person or represented thereat by proxy; or
- (b) proxies requiring that the securities represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matters or group of matters total more than 5 per cent of all the voting rights attached to all the securities entitled to be voted and be represented at the meeting. 1978, c.47, s. 86.

86. The chairman at a meeting has the right not to conduct a vote by way of ballot on any matter or group of matters in connection with which the form of proxy has provided a means whereby the person or company whose proxy is solicited may specify how such person or company wishes the securities registered in his name to be voted unless,

- (a) a poll is demanded by any security holder present at the meeting in person or represented thereat by proxy; or
- (b) proxies requiring that the securities represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matters or group of matters total more than 5 per cent of all the voting rights attached to all the securities entitled to be voted and be represented at the meeting. R.S.O. 1970, c. 426, s. 106, *amended*.

1966

105. If the aggregate number of shares represented at a meeting by proxies required to be voted for or against a particular matter or group of matters carries, to the knowledge of the chairman of the meeting, less than 5 per cent of the voting rights attached to the shares entitled to vote and represented at the meeting, the chairman of the meeting has the right not to conduct a vote by way of ballot on any such matter or group of matters unless a poll is demanded at the meeting or required by the laws of the jurisdiction of incorporation of the corporation. *See*.

87.(1) Compliance with laws of other jurisdiction.—Where a reporting issuer is complying with the requirements of the laws of the jurisdiction under which it is incorporated, organized or continued and the requirements are substantially similar to the requirements of this Part, the requirements of this Part do not apply.

(2) Exemption by order.—Subject to subsection (1), upon the application of any interested person or company, the Commission may,

(a) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued; or

(b) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as the Commission may impose; exempting, in whole or in part, a person or company from the requirements of this Part and of section 80, 1978, c. 47, s. 87.

87.—(1) Where a reporting issuer is complying with the requirements of the laws of the jurisdiction under which it is incorporated, organized or continued and the requirements are substantially similar to the requirements of this Part, the requirements of this Part do not apply.

(2) Subject to subsection 1, upon the application of any interested person or company, the Commission may,

(a) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued; or

(b) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as the Commission may impose; exempting, in whole or in part, a person or company from the requirements of this Part and of section 80. *New.*

PART XIX

TAKE-OVER BIDS AND ISSUER BIDS

88.(1) Interpretation. — In this Part,

- (a) "class-of securities" means the particular class or series of securities for which a take-over bid or an issuer bid is made;
- (b) "day" means a clear day and a period of days shall be deemed to commence the day following the event which began the period and shall be deemed to terminate on midnight of the last day of the period except that if the last day of the period falls on a Sunday or holiday the period shall terminate on midnight of the day next following that is not a Sunday or holiday;
- (c) "directors' circular" means a directors' circular prepared in accordance with the regulations;
- (d) "issuer bid" means,
 - (i) an offer made by an issuer to security holders the last address of any of whom as shown on the books of the issuer is in Ontario to purchase, redeem or otherwise acquire any or all of a class of the securities of the issuer, other than debt securities that are not convertible into equity securities,
 - (ii) the acceptance by an issuer of an offer to sell securities of the issuer, other than debt securities that are not convertible into equity securities, and the issuer accepting the offer to sell shall be deemed to be an offeror;
- (e) "market price", as to securities in which there is a published market, at any date, means,
 - (i) except where a determination has been made by the Commission under clause 99(b), the price determined in accordance with the regulations, by reference to the price of such securities as established by trades on the published market, or
 - (ii) where the Commission has made a determination of market price under clause 99(b), the price so determined;
- (f) "offeree" means a person or company to whom a take-over bid or an issuer bid is made and whose latest address as shown on the books of the offeree company is in Ontario;
- (g) "offeree company" means a company or other issuer whose securities are the subject of a take-over bid;
- (h) "offeror" means a person or company other than an agent, who makes a take-over bid or an issuer bid and where two or more persons or companies make offers,
 - (i) jointly or in concert, or
 - (ii) intending to exercise jointly or in concert any voting rights attaching to the securities acquired through the offer,

§ 1. — (1) Clauses 88 (1) (c) and (d) of the said Act are repealed and the following substituted therefor:

(d) "issuer bid" means an offer to purchase, an offer to redeem or an offer to acquire otherwise any or all of a class of the securities of the issuer, other than debt securities that are not convertible into equity securities made by an issuer to security holders the last address of any of whom as shown on the books of the issuer is in Ontario.

(2) Subsection 88 (1) of the said Act is amended by adding thereto the following clause:

(ea) "offer to purchase" means an offer to purchase, the acceptance by a person or company of an offer to sell or a combination of an offer to purchase and an acceptance of an offer to sell.

(3) Clause 88 (1) (f) of the said Act is repealed and the following substituted therefor:

(f) "offeree" means a person or company to whom a take-over bid or an issuer bid is made and whose latest address as shown on the books of the offeree company or issuer is in Ontario.

(4) Clause 88 (1) (k) of the said Act is repealed and the following substituted therefor:

(k) "take-over bid" means an offer to purchase, directly or indirectly, voting securities of a company or other issuer made to security holders, the last address of any of whom as shown on the books of the offeree company

when each of them shall be deemed to be an offeror if the offer made by any of them is a take-over bid.

- (i) "offeror's presently-owned securities" means voting securities of an offeree company beneficially owned, directly or indirectly, on the date of a take-over bid by the offeror or associates of the offeror and where two or more persons or companies make offers,

(ii) jointly or concert, or

- (iii) intending to exercise jointly or in concert any voting rights attaching to the securities acquired through the offers,

includes the voting securities owned by all of such persons or companies and their associates;

- (j) "published market", as to any class of securities, means a stock exchange recognized by the Commission for purposes of this Part on which such securities are listed, or any other market on which such securities are traded if the prices at which they have been traded on that market are regularly published in a *bona fide* newspaper or business or financial publication of general and regular paid circulation; and
- (k) "take-over bid" means,

- (i) an offer made to security holders, the last address of any of whom as shown on the books of the offeree company or other issuer is in Ontario, to purchase directly or indirectly voting securities of the company or other issuer,

(ii) the acceptance by a person or company of an offer to sell voting securities of a company or other issuer and such acceptance shall be deemed to constitute an offer to purchase and the person or company accepting the offer shall be deemed to be an offeror, or

- (iii) a combination of an offer to purchase referred to in subclause (i) and an acceptance of an offer to sell referred to in subclause (ii),

where the voting securities which are the subject of the offer to purchase, the acceptance of the offer to sell or the combination thereof, as the case may be, together with the offeror's presently owned securities will in the aggregate exceed 20 per cent of the outstanding voting securities of the company or other issuer and where two or more persons or companies make or accept offers jointly or in concert or intending to exercise jointly or in concert any voting rights attaching to the securities to be acquired, then the securities owned by each of them shall be included in the calculation of the percentage of the outstanding voting securities of the company or other issuer owned by each of them; and

- (l) "uniform act province" means a province or territory of Canada designated in the regulations as a province or territory which has legislation in effect containing provisions substantially the same as this Part and section 129, 1978, c. 47,

s. 10(11)

or other issuer is in Ontario, where the voting securities which are the subject of the offer to purchase, together with the offeror's presently owned securities, will carry, in the aggregate, 10 per cent or more of the voting rights attached to the voting securities of the company or other issuer that would be outstanding on the exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities and where two or more persons or companies make offers to purchase jointly or in concert or intending to exercise jointly or in concert any voting rights attaching to the securities to be acquired, then the voting rights attaching to the securities owned by each of them shall be included in the calculation of the percentage of the voting rights attaching to the voting securities of the company or other issuer owned by each of them is of all voting rights that would be attached to all voting securities that would be outstanding on the exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities.

- (5) The said subsection 88 (1) is further amended by adding thereto the following clause:

(m) "voting security" includes,

- (i) a security currently convertible into a voting security or into another security that is convertible into a voting security,
- (ii) a currently exercisable option or right to acquire a voting security or another security that is convertible into a voting security, or
- (iii) a security carrying an option or right referred to in subclause (ii).

1979

(2) Exempted takeover bids.—Subject to subsection 91(1), a takeover bid is exempted from the requirements of this Part where,

- (a) it is made through the facilities of a stock exchange recognized by the Commission for the purpose of this section according to the by-laws, regulations or policies of the stock exchange;
- (b) it is an offer to purchase securities in a private company;
- (c) it is an offer to purchase securities by way of agreements with fewer than fifteen security holders and not made pursuant to an offer to security holders generally, but where an offeror enters into an agreement to purchase securities from a person or company and the offeror knows or ought to know after reasonable inquiry that,

- (i) one or more other persons or companies on whose behalf that person or company is acting as trustee, executor, administrator or other legal representatives, have a direct beneficial interest in those securities, then each of such others shall be included in the determination of the number of security holders with whom there have been agreements, but where an *inter vivos* trust has been established by a single settlor or where an estate has not vested in all persons beneficially entitled thereto, the trust or estate shall be considered to be a single security holder in such determination, or

- (ii) the person or company acquired the securities during the two years preceding the date of the agreement with the intent that they should be sold under such agreement, then each person or company from whom those securities were acquired shall be included in the determination of the number of security holders with whom there have been agreements;

- (d) it involves the acquisition of not more than 5 per cent of the voting securities of the offeree company but the aggregate number of voting securities acquired by the offeror, his associates or affiliates within any period of twelve consecutive months in reliance on the exemption provided by this clause shall not, when aggregated with acquisitions made under clause (a) during the same twelve-month period, exceed 5 per cent of the outstanding voting securities of the offeree company at the beginning of the period, and this clause does not apply to any purchase of voting securities in which there is a published market if that purchase is effected above the market price at the date of purchase plus reasonable brokerage fees or other commission; or

- (e) it is an offer to acquire voting securities of an issuer made by and accepted by a person or company each of whom is, as regards such issuer, a person or company referred to in subparagraph iii of paragraph 11 of subsection 1(1). 1978, c.47, s. 88(2); 1979, c.86, s. 12(1.2).

12.—(1) Subsection 2 of section 88 of the said Act is amended by striking out "Subject to section 91" in the first line and inserting in lieu thereof "Subject to subsection 1 of section 91".

(2) Clause *d* of subsection 2 of the said section 88 is repealed and the following substituted therefor:

(d) it involves the acquisition of not more than 5 per cent of the voting securities of the offeree company but the aggregate number of voting securities acquired by the offeror, his associates or affiliates within any period of twelve consecutive months in reliance on the exemption provided by this clause shall not, when aggregated with acquisitions made under clause *a* during the same twelve-month period, exceed 5 per cent of the outstanding voting securities of the offeree company at the beginning of the period, and this clause does not apply to any purchase of voting securities in which there is a published market if that purchase is effected above the market price at the date of purchase plus reasonable brokerage fees or other commission; or

(3) Clause *a* of subsection 3 of the said section 88 is repealed and the following substituted therefor:

(a) the securities are purchased, redeemed or otherwise acquired in accordance with terms and conditions attaching thereto that permit the purchase, redemption or acquisition of the securities by the issuer without the prior agreement of the owners of the securities, or the securities are acquired to meet sinking fund requirements or are acquired from an employee of the issuer or an employee of an affiliate.

(3) Exempted issuer bid.—An issuer bid is exempted from the requirements of this Part where,

- (a) the securities are purchased, redeemed or otherwise acquired in accordance with terms and conditions attaching thereto that permit the purchase, redemption or acquisition of the securities by the issuer without the prior agreement of the owners of the securities, or the securities are acquired to meet sinking fund requirements or are acquired from an employee of the issuer or an employee of an affiliate;
- (b) the purchases, redemptions or other acquisitions are required by the instrument creating or governing the class of securities or by the statute under which the issuer was incorporated or organized;
- (c) the issuer bid is made through the facilities of a stock exchange recognized by the Commission for the purpose of this Part according to the by-laws, regulations or policies of the stock exchange;
- (d) following the publication of a notice of intention in the form and in the manner prescribed by the regulations, the issuer purchases securities of the issuer but the aggregate number, or in the case of convertible debt securities, the aggregate principal amount, of securities purchased by the issuer in reliance on the exemption provided by this clause during any period of twelve consecutive months shall not exceed 5 per cent of the securities of the class sought outstanding at the commencement of the period; or
- (e) the issuer bid is made by a private company, 1978, c. 47, s. 88(3); 1979, c. 86, s. 12(3).

88.—(1) In this Part,

- (a) "class of securities" means the particular class or series of securities for which a take-over bid or an issuer bid is made;
- (b) "day" means a clear day and a period of days shall be deemed to commence the day following the event which began the period and shall be deemed to terminate on midnight of the last day of the period except that if the last day of the period falls on a Sunday or holiday the period shall terminate on midnight of the day next following that is not a Sunday or holiday;
- (c) "directors' circular" means a directors' circular prepared in accordance with the regulations;
- (d) "issuer bid" means,
 - (i) an offer made by an issuer to security holders the last address of any of whom as shown on the books of the issuer is in Ontario to purchase, redeem or otherwise acquire any or all of a class of the securities of the issuer other than debt securities that are not convertible into equity securities,
 - (ii) the acceptance by an issuer of an offer to sell securities of the issuer, other than debt securities that are not convertible into equity securities, and the issuer accepting the offer to sell shall be deemed to be an offeror;
- (e) "market price", as to securities in which there is a published market, at any date, means,
 - (i) except where a determination has been made by the Commission under clause b of section 99, the price determined in accordance with the regulations, by reference to the price of such securities as established by trades on the published market, or
 - (ii) where the Commission has made a determination of market price under clause b of section 99, the price so determined;
- (f) "offeree" means a person or company to whom a take-over bid or an issuer bid is made and whose

latest address as shown on the books of the offeror company is in Ontario;

(g) "offeree company" means a company or other issuer whose securities are the subject of a take-over bid;

(h) "offeror" means a person or company other than an agent, who makes a take-over bid or an issuer bid and where two or more persons or companies make offers,

(i) jointly or in concert, or

(ii) intending to exercise jointly or in concert any voting rights attaching to the securities acquired through the offers,

then each of them shall be deemed to be an offeror if the offer made by any of them is a take-over bid;

(z) "offeror's presently-owned securities" means voting securities of an offeree company beneficially owned, directly or indirectly, on the date of a take-over bid by the offeror or associates of the offeror and where two or more persons or companies make offers,

(i) jointly or in concert, or

(ii) intending to exercise jointly or in concert any voting rights attaching to the securities acquired through the offers,

includes the voting securities owned by all of such persons or companies and their associates;

(y) "published market", as to any class of securities, means a stock exchange recognized by the Commission for purposes of this Part on which such securities are listed, or any other market on which such securities are traded if the prices at which they have been traded on that market are regularly published in a *bona fide* newspaper or business or financial publication of general and regular paid circulation; and

(k) "take-over bid" means,

(i) an offer made to security holders, the last address of any of whom as shown on the books of the offeree company or other issuer is in Ontario, to purchase directly or indirectly voting securities of the company or other issuer,

(ii) the acceptance by a person or company of an offer to sell voting securities of a company or other issuer and such acceptance shall be deemed to constitute an offer to purchase and the person or company accepting, the offer shall be deemed to be an offeror, or

(iii) a combination of an offer to purchase referred to in subclause i and an acceptance of an offer to sell referred to in subclause ii,

where the voting securities which are the subject of the offer to purchase, the acceptance of the offer to sell or the combination thereof, as the case may be, together with the offeror's presently owned securities will in the aggregate exceed 20 per cent of the outstanding voting securities of the company or other issuer and where two or more persons or companies make or accept offers jointly or in concert or intending to exercise jointly or in concert any voting rights attaching to the securities to be acquired, then the securities owned by each of them shall be included in the calculation of the percentage of the outstanding voting securities of the company or other issuer owned by each of them;

(1) "uniform act province" means a province or territory of Canada designated in the regulations as a province or territory which has legislation in effect containing provisions substantially the same as this Part and section 129, R.S.O. 1970, c. 426, s. 81, 1971, c. 31, s. 22, *amended*.

(2) Subject to section 91, a take-over bid is exempted from the requirements of this Part where,

(a) it is made through the facilities of a stock exchange recognized by the Commission for the purpose of this section according to the by-laws, regulations or policies of the stock exchange;

(b) it is an offer to purchase securities in a private company;

(c) it is an offer to purchase securities by way of agreements with fewer than fifteen security holders and not made pursuant to an offer to security holders generally, but where an offeror enters into an agreement to purchase securities from a person or company and the offeror knows or ought to know after reasonable inquiry that

(i) one or more other persons or companies on whose behalf that person or company is acting as trustee, executor, administrator or other legal representatives, have a direct beneficial interest in those securities, then each of such others shall be included in the determination of the number of security holders with whom there have been agreements but where an *inter vivos* trust has been established by a single settlor or where an estate has not vested in all persons beneficially entitled thereto, the trust or estate shall be considered to be a single security holder in such determination, or

(ii) the person or company acquired the securities during the two years preceding the date of the agreement with the intent that they should be sold under such agreement, then each person or company from whom those securities were acquired shall be included in the determination of the number of security holders with whom there have been agreements;

(d) it involves the acquisition of not more than 5 per cent of the voting securities of the offeree company but the aggregate number of voting securities acquired by the offeror, his associates or affiliates, within any period of twelve consecutive months in reliance on the exemptions provided by this subsection, shall not exceed 5 per cent of the outstanding voting securities of the offeree company at the beginning of the period, and this clause does not apply to any purchase of voting securities in which there is a published market if that purchase is effected above the market price at the date of purchase plus reasonable brokerage fees or other commission; or

(e) it is an offer to acquire voting securities of an issuer made by and accepted by a person or company each of whom is, as regards such issuer, a person or company referred to in subparagraph iii of paragraph 11 of subsection 1 of section 1, R.S.O. 1970, c. 426, s. 81; 1971, c. 31, s. 22, *amended*

(3) An issuer bid is exempted from the requirements of this Part where,

- (a) the securities are purchased, redeemed or otherwise acquired in accordance with the terms and conditions agreed to at the time they were issued or subsequently varied by amendment of the documents setting out those terms and conditions, or are acquired to meet sinking fund requirements or from an employee of the issuer or an employee of an affiliate;
- (b) the purchases, redemptions or other acquisitions are required by the instrument creating or governing the class of securities or by the statute under which the issuer was incorporated or organized;
- (c) the issuer bid is made through the facilities of a stock exchange recognized by the Commission for the purpose of this Part according to the by-laws, regulations or policies of the stock exchange;
- (d) following the publication of a notice of intention in the form and in the manner prescribed by the regulations, the issuer purchases securities of the issuer, but the aggregate number, or in the case of convertible debt securities, the aggregate principal amount, of securities purchased by the issuer in reliance on the exemption provided by this clause during any period of twelve consecutive months shall not exceed 5 per cent of the securities of the class sought outstanding at the commencement of the period; or
- (e) the issuer bid is made by a private company. *Nine.*

22. Clause b of section 81 of *The Securities Act* is repealed and the following substituted therefor:

(b) "exempt offer" means,

- (i) an offer to purchase shares by way of private agreement with fewer than fifteen shareholders and not made to shareholders generally;
- (ii) an offer to purchase shares to be effected through the facilities of a stock exchange or in the over-the-counter market, where such purchases are reported in accordance with section 110a;
- (iii) an offer to purchase shares in a private company, or
- (iv) an offer exempted by order of the Commission made under section 90.

1966
~~80.~~ In this Part,

(a) "directors' circular" means the circular prescribed by Division D of this Part;

(b) "exempt offer" means,

- (i) an offer to purchase shares by way of private agreement with individual shareholders and not made to shareholders generally;
- (ii) an offer to purchase shares to be effected through the facilities of a stock exchange or in the over-the-counter market;
- (iii) an offer to purchase shares in a private company or in a public company that has fewer than fifteen shareholders whose last address as shown on the books of the offeree company is in Ontario, two or more persons who are joint registered owners of one or more shares being counted as one shareholder, or
- (iv) an offer exempted by order of a judge of the High Court designated by the Chief Justice of the High Court made pursuant to section 89;

- (c) "offeree" means a person or company to whom a take-over bid is made and whose last address as shown on the books of the offeree company is in Ontario;
- (d) "offeree company" means a company whose shares are the subject of a take-over bid;
- (e) "offeror" means a person or company, other than an agent, who makes a take-over bid, and includes two or more persons or companies,
 - (i) whose take-over bids are made jointly or in concert, or
 - (ii) who intend to exercise jointly or in concert any voting rights attaching to the shares for which a take-over bid is made;
- (f) "offeror's presently-owned shares" means equity shares of an offeree company beneficially owned, directly or indirectly, on the date of a take-over bid by the offeror or an associate of the offeror;
- (g) "take-over bid" means an offer, other than an exempt offer, made to shareholders the last address of any of whom as shown on the books of the offeree company is in Ontario to purchase such number of equity shares of a company that, together with the offeror's presently-owned shares, will in the aggregate exceed 20 per cent of the outstanding equity shares of the company;
- (h) "undisclosed principal" means any person or company on whose behalf a take-over bid is made whose identity is not disclosed in the take-over bid or in the take-over circular. *New.*

1978

89.— (1) The following provisions apply to every take-over bid and issuer bid:

1. The take-over bid or issuer bid shall be sent to all holders of the class of securities sought, and of securities convertible into, or carrying the right to purchase, securities of that class, whose last address on the records of the offeree company or issuer is in Ontario

1978

2. The period of time in which securities may be deposited pursuant to a take-over bid or an issuer bid shall not be less than twenty-one days from the date thereof.

1966

81. The following provisions apply to every take-over bid:

1. The period of time within which shares may be deposited pursuant to a take-over bid shall not be less than twenty-one days from the date thereof.

1978

3. Any securities deposited pursuant to a take-over bid or an issuer bid shall not be taken up and paid for by the offeror until the expiration of ten days from its date.

1971

23. Paragraphs 3, 4, 5, 6 and 7 of section 82 of *The Securities Act* are repealed and the following substituted therefor:

3. Any shares deposited pursuant to a take-over bid may be withdrawn by or on behalf of an offeree at any time until the expiration of seven days from its date, but where the terms of the take-over bid are varied before the expiration thereof the offeree shall have an additional seven days from the date of their receipt of the varied offer to withdraw any shares deposited pursuant to the take-over bid.

89(1) Requirements for take-over and issuer bids.— The following provisions apply to every take-over bid and issuer bid:

1. The take-over bid or issuer bid shall be sent to all holders of the class of securities sought, and of securities convertible into, or carrying the right to purchase, securities of that class, whose last address on the records of the offeree company or issuer is in Ontario.

2. The period of time in which securities may be deposited pursuant to a take-over bid or an issuer bid shall not be less than twenty-one days from the date thereof.

3. Any securities deposited pursuant to a take-over bid or an issuer bid shall not be taken up and paid for by the offeror until the expiration of ten days from its date.

1966

81. 2. Any shares deposited pursuant to a take-over bid shall not be taken up and paid for by the offeror until the expiration of seven days from its date.

1978

4. Any securities deposited pursuant to a take-over bid or an issuer bid may be withdrawn by an offeree at any time until the expiration of ten days from its date.

1971

(see s. 23 para. 3 previous page)

1966

81. 3. Any shares deposited pursuant to a take-over bid may be withdrawn by or on behalf of an offeree at any time until the expiration of seven days from its date.

1978

5. Notice of withdrawal of any securities pursuant to paragraph 4 shall be made in writing, including telegraphic communication, by the offeree or his agent and must be actually received by the depositary.

4. Any securities deposited pursuant to a take-over bid or an issuer bid may be withdrawn by an offeree at any time until the expiration of ten days from its date.

5. Notice of withdrawal of any securities pursuant to paragraph 4 shall be made in writing, including telegraphic communication, by the offeree or his agent and must be actually received by the depositary.

6. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees, securities deposited pursuant thereto shall not be taken up and paid for by an offeror until the expiration of twenty-one days from its date.

1978

6. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees, securities deposited pursuant thereto shall not be taken up and paid for by an offeror until the expiration of twenty-one days from its date.

1971

23. 4. Where a take-over bid is made for less than all the equity shares owned by offerees, shares deposited pursuant thereto shall not be taken up and paid for by an offeror until the expiration of twenty-one days from its date.

1966

18. 4. Where a take-over bid is made for less than all the equity shares of a class owned by offerees, shares deposited pursuant thereto shall not be taken up and paid for by an offeror until the expiration of twenty-one days from its date.

1978

7. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees, the period of time within which securities may be deposited pursuant to the take-over bid or an issuer bid, or any extension thereof, shall not exceed thirty-five days from the date of the take-over bid or an issuer bid.

7. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees, the period of time within which securities may be deposited pursuant to the take-over bid or an issuer bid, or any extension thereof, shall not exceed thirty-five days from the date of the take-over bid or an issuer bid.

1971

23. 5. Where a take-over bid is made for less than all the equity shares owned by offerees, the period of time within which shares may be deposited pursuant to the take-over bid, or any extension thereof, shall not exceed thirty-five days from the date of the take-over bid.

1966

81. 5. Where a take-over bid is made for less than all the equity shares of a class owned by offerees, the period of time within which shares may be deposited pursuant to the take-over bid, or any extension thereof, shall not exceed thirty-five days from the date of the take-over bid.

1978

8. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees, securities deposited pursuant to the take-over bid or an issuer bid shall be taken up and paid for, if all the terms and conditions thereof not waived by the offeror have been complied with, within fourteen days after the last day within which securities may be deposited thereto.

1971

23. 6. Where a take-over bid is made for less than all the equity shares owned by offerees, shares deposited pursuant to the take-over bid shall be taken up and paid for, if all the terms and conditions thereof not waived by the offeror have been complied with, within fourteen days after the last day within which shares may be deposited pursuant thereto.

8. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees, securities deposited pursuant to the take-over bid or an issuer bid shall be taken up and paid for, if all the terms and conditions thereof not waived by the offeror have been complied with, within fourteen days after the last day within which securities may be deposited thereto.

- 81 6. Where a take-over bid is made for less than all the equity shares of a class owned by offerees, shares deposited pursuant to the take-over bid shall be taken up and paid for, if all the terms and conditions thereof not waived by the offeror have been complied with, within fourteen days after the last day within which shares may be deposited pursuant thereto.

1978

9. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees and where a greater number of securities is deposited pursuant thereto than the offeror is bound or willing to take up and pay for, the securities taken up by the offeror shall be taken up as nearly as may be *pro rata*, disregarding fractions, according to the number of securities deposited by each offeree.

1971

- 23 7. Where a take-over bid is made for less than all the equity shares owned by offerees and where a greater number of shares is deposited pursuant thereto than the offeror is bound or willing to take up and pay for, the shares taken up by the offeror shall be taken up as nearly as may be *pro rata*, disregarding fractions, according to the number of shares deposited by each offeree.

1966

- 81 7. Where a take-over bid is made for less than all the equity shares of a class owned by offerees and where a greater number of shares is deposited pursuant thereto than the offeror is bound or willing to take up and pay for, the shares taken up by the offeror shall be taken up as nearly as may be *pro rata*, disregarding fractions, according to the number of shares deposited by each offeree. *New.*

9. Where a take-over bid or an issuer bid is made for less than all of the class of securities sought that are owned by offerees and where a greater number of securities is deposited pursuant thereto than the offeror is bound or willing to take up and pay for, the securities taken up by the offeror shall be taken up as nearly as may be *pro rata*, disregarding fractions, according to the number of securities deposited by each offeree.

1982

32.—(1) Paragraph 10 of subsection 89 (1) of the said Act is repealed and the following substituted therefor:

10. Where the offeror making a take-over bid or issuer bid intends to purchase securities that are the subject of the take-over bid or issuer bid in the market, his intention shall be set out in the take-over bid circular or issuer bid circular and, where the take-over bid or issuer bid is made for less than all of the class of securities sought that are owned by offerees, the offeror shall not reduce the number of securities he is bound or willing to take up under paragraphs 8 and 9 by the number of securities purchased in the market, but those securities shall be counted in the determination of whether a condition as to the minimum number of securities the offeror is bound or willing to take up has been fulfilled.

1979

13.—(1) Paragraph 10 of subsection 1 of section 89 of the said Act is amended by adding at the end thereof "but those securities shall be counted in the determination of whether a condition as to the minimum number of securities the offeror is bound or willing to take up has been fulfilled".

1978

10. Where the offeror making a take-over bid intends to purchase securities in the market his intention shall be set out in the take-over bid circular and, where the take-over bid is made for less than all of the class of securities sought that are owned by offerees, the offeror shall not reduce the number of securities he is bound or willing to take up under paragraphs 8 and 9 by the number of securities purchased in the market.

10. Where the offeror making a take-over bid intends to purchase securities in the market his intention shall be set out in the take-over bid circular and, where the take-over is made for less than all of the class of securities sought that are owned by offerees, the offeror shall not reduce the number of securities he is bound or willing to take up under paragraphs 8 and 9 by the number of securities purchased in the market, but those securities shall be counted in the determination of whether a condition as to the minimum number of securities the offeror is bound or willing to take up has been fulfilled.

1971

23. 9. Where the offeror intends to purchase securities in the market, his intention shall be set out in the take-over bid circular and, where the take-over bid is made for less than all of the equity shares owned by the offeree, he shall not reduce the number of shares he is bound or willing to take up under paragraph 7 by the number of shares purchased in the market.

1982

32. (2) Paragraph 11 of the said subsection 89 (1) is amended by inserting after "the" in the second line "offeree".

1978

11. In the case of a take-over bid, where the laws applicable to the company provide for a right of appraisal or acquisition, the offeror shall advise the offeree of his rights of appraisal and whether the offeror intends exercising any right of acquisition he may have.

1971

23. 8. Where the laws applicable to the company provide for a right of appraisal or acquisition, the offeror shall advise the offeree of his rights of appraisal and whether the offeror intends exercising any right of acquisition he may have.

11. In the case of a take-over bid, where the laws applicable to the company provide for a right of appraisal or acquisition, the offeror shall advise the offeree of his rights of appraisal and whether the offeror intends exercising any right of acquisition he may have.

12. The offeror shall not attach any conditions to the offer except the right not to take up and pay for the securities deposited if,
- (a) the offerees fail to tender the minimum number of securities the offeror is bound and willing to take up;
 - (b) any undisclosed action prior to the date of the offer or any action subsequent to such date, by a person or company other than the offeror, including a governmental or regulatory authority, or, in the case of a take-over bid, by the offeree company and its directors or senior officers, results in a material change in the affairs of the company; or
 - (c) the required approval of a governmental or regulatory authority is not obtained prior to the expiration of the offer.

1982

32. (3) Paragraph 12 of the said subsection 89 (1) is amended by striking out "of the company; or" in the eighth line of clause (b) and inserting in lieu thereof "of the offeree company;" and by inserting "or" at the end of clause (c) and by adding thereto the following clause:

(d) there exists, at the time for so doing, any enforceable prohibition by virtue of a law of general application against taking up or paying for the securities deposited.

1979

13. (2) Paragraph 12 of subsection 1 of the said section 89 is amended by striking out "to withdraw the offer if" in the second line and inserting in lieu thereof "not to take up and pay for securities deposited if".

(3) Clause b of paragraph 12 of subsection 1 of the said section 89 is amended by striking out "or" in the fifth line and inserting in lieu thereof "and" and by striking out "that" in the seventh line.

1978

12. The offeror shall not attach any conditions to the offer except the right to withdraw the offer if,

(a) the offerees fail to tender the minimum number of securities the offeror is bound and willing to take up;

(b) any undisclosed action prior to the date of the offer or any action subsequent to such date, by a person or company other than the offeror, including a governmental or regulatory authority, or, in the case of a take-over bid, by the offeree company or its directors or senior officers, that results in a material change in the affairs of the company; or

(c) the required approval of a governmental or regulatory authority is not obtained prior to the expiration of the offer.

1971

23. 10. The offeror shall not attach any conditions to the offer except the right to withdraw the offer if the offerees fail to tender the minimum number of shares the offeror is bound and willing to take up or where the action of the board of directors of the offeror company subsequent to the date of the offer materially changes the undertakings, assets or capital of the offeror company.

1979

13. (4) Paragraph 13 of subsection 1 of the said section 89 is amended by striking out "making" in the fourth line and inserting in lieu thereof "date".

1978

13. Where the take-over bid or issuer bid is made for all of the class of securities sought that are owned by offerees, the offeror shall, at the expiration of thirty-five days from the date of the offer, take up and pay for the securities tendered at that time or abandon his offer.

1971

23. 11. Where the offer is made for all of the equity shares owned by offerees, the offeror shall, at the expiration of thirty-five days from the making of the offer, take up and pay for the shares tendered at that time or abandon his offer.

14. Where the take-over bid is subject to the approval of a governmental or regulatory authority, the time within which the offeror is bound to take up and make payment for the securities under paragraphs 8 and 13 may be extended for a period not exceeding an additional ninety days. 1978, c. 47, s. 89(1); 1979, c. 86, s. 13.

14. Where the take-over bid is subject to the approval of a governmental or regulatory authority, the time within which the offeror is bound to take up and make payment for the securities under paragraphs 8 and 13 may be extended for a period not exceeding an additional ninety days. R.S.O. 1970, c. 426, s. 82; 1971, c. 31, s. 23, *amended*.

1982

(4) The said subsection 89 (1) is amended by adding thereto the following paragraph:

15. All communications to offerees required or permitted by this Part shall be sent to each offeree at the latest address of the offeree as shown on the books of the offeree company or, in the case of an issuer bid, as shown on the books of the offeror by prepaid mail or personal delivery to that address.

1978

(2) Sale by offeror prohibited. — The offeror shall not sell any of the class of the securities that are the subject of the take-over bid during the period of the take-over bid.

(3) Offer increasing take-over bid or issuer bid. — Where, during the course of a take-over bid or an issuer bid, the offeror pays or agrees to pay a price for securities higher than the consideration offered through the take-over bid or issuer bid, the take-over bid or issuer bid shall be deemed to be varied by increasing the consideration to the higher price. 1978, c. 47, s. 89(2, 3).

(2) The offeror shall not sell any of the class of the securities that are the subject of the take-over bid during the period of the take-over bid.

(3) Where, during the course of a take-over bid or an issuer bid, the offeror pays or agrees to pay a price for securities higher than the consideration offered through the take-over bid or issuer bid, the take-over bid or issuer bid shall be deemed to be varied by increasing the consideration to the higher price. *New*.

1982

- (5) Section 89 of the said Act is amended by adding thereto the following subsection:

32.

(4) Where the Commission or the Director is of the opinion that it would be impractical to send a communication in the manner required by paragraph 15 of subsection (1), the Commission or the Director may authorize the communication to be made in such manner as it or he considers likely to bring the communication to the attention of the offerees and a communication when made in the manner so authorized shall be deemed to have been communicated to the offerees.

1982

33. Subsection 90 (1) of the said Act is amended by striking out "shares" in the fifth line and inserting in lieu thereof "securities".

1978

90. - (1) Where a significant change has occurred in the information contained in a take-over bid circular or issuer bid circular while the offer is still outstanding or where a take-over bid or an issuer bid has been varied by changing any of its terms, every person or company whose shares have not been taken up and paid for and who has been sent the take-over bid circular or issuer bid circular shall be sent notice of such change or variation and, except where a variation is solely an increase in price, the date of the take-over bid or issuer bid shall, for the purposes of section 89, be deemed to be the date of the sending of the notice of such change or variation.

90.(1) Notice of variation in take-over bid or issuer bid. - Where a significant change has occurred in the information contained in a take-over bid circular or issuer bid circular while the offer is still outstanding or where a take-over bid or an issuer bid has been varied by changing any of its terms, every person or company whose shares have not been taken up and paid for and who has been sent the take-over bid circular or issuer bid circular shall be sent notice of such change or variation and, except where a variation is solely an increase in price, the date of the take-over bid or issuer bid shall, for the purposes of section 89, be deemed to be the date of the sending of the notice of such change or variation. 1978, c. 47, s. 90(1).

1979

14. Section 90 of the said Act is amended by adding thereto the following subsection:

(1a) For purposes of subsection 1, a change that is not within the control of the offeror or of an affiliate of the offeror shall not be considered to be significant unless it is a material change affecting the affairs of the issuer of securities being offered in exchange for securities of the offeree company and, while an offer is outstanding, the exercise of a right contained in a take-over bid or an issuer bid to modify the terms of the offer or to waive a condition of the offer shall be considered to be a variation which changes the terms of the take-over bid or the issuer bid.

(2) Idem.—For purposes of subsection (1), a change that is not within the control of the offeror or of an affiliate of the offeror shall not be considered to be significant unless it is a material change affecting the affairs of the issuer of securities being offered in exchange for securities of the offeree company and, while an offer is outstanding, the exercise of a right contained in a take-over bid or an issuer bid to modify the terms of the offer or to waive a condition of the offer shall be considered to be a variation which changes the terms of the take-over bid or the issuer bid. 1979, c. 86, s. 14.

1978

(2) A notice of variation shall advise the offeree of his rights under paragraph 4 of subsection 1 of section 89.

(3) Idem.—A notice of variation shall advise the offeree of his rights under paragraph 4 of subsection 89(1).

1978

(4) Variation of terms of take-over bid or issuer bid. — Where the terms of a take-over bid or an issuer bid are varied before the expiration thereof by increasing the consideration offered for the securities, the offeror shall pay such increased consideration to each offeree whose securities are taken up and paid for pursuant to the take-over bid or issuer bid, whether or not such securities have been taken up by the offeror before the variation of the take-over bid or issuer bid. 1978, c. 47, s. 90(2, 3).

(3) Where the terms of a take-over bid or an issuer bid are varied before the expiration thereof by increasing the consideration offered for the securities, the offeror shall pay such increased consideration to each offeree whose securities are taken up and paid for pursuant to the take-over bid or issuer bid, whether or not such securities have been taken up by the offeror before the variation of the take-over bid or issuer bid. R.S.O. 1970, c. 426, s. 84, *amended*.

1966

83.—(1) Where the terms of a take-over bid are varied before the expiration thereof by increasing the consideration offered for the equity shares of an offeree company, the offeror shall pay such increased consideration to each offeree whose shares are taken up and paid for pursuant to the take-over bid whether or not such shares have been taken up by the offeror before the variation of the take-over bid.

(2) Where a take-over bid for all the equity shares of a class owned by offerees is converted, by amendment or otherwise, to a bid for less than all the equity shares of a class owned by offerees, the take-over bid shall be conclusively deemed to be for less than all the equity shares of a class owned by offerees. *New.*

91(1) Follow-up offers.— Where a take-over bid is effected without compliance with section 89 in reliance on the exemption in clause 88(2)(c), if there is a published market in the class of securities acquired and the value of the consideration paid for any of the securities acquired and the value of the consideration paid for any of the securities acquired exceeds the market price at the date of the relevant agreement plus reasonable brokerage fees or other commissions, the offeror shall within 180 days after the date of the first of the agreements comprising the take-over bid, offer to purchase all of the additional securities of the same class owned by security holders, the last registered address of whom is in Ontario or in a uniform act province, at and for a consideration per security at least equal in value to the greatest consideration paid under any such agreements, and that offer shall be a take-over bid for purposes of this Part.

34. Subsection 91 (1) of the said Act is repealed and the following substituted therefor:

(1) Where a take-over bid is effected without compliance with section 89 in reliance on the exemption in clause 88 (2) (c) and the voting securities which were the subject of the offer to purchase, together with the offeror's presently owned securities carry, in the aggregate 20 per cent or more of the voting rights attached to the voting securities of the company or other issuer if there is a published market in the class of securities acquired and the value of the consideration paid for any of the securities acquired exceeds the market price at the date of the relevant agreement plus reasonable brokerage fees or other commissions, the offeror shall within 180 days after the date of the first of the agreements comprising the take-over bid, offer to purchase all of the additional securities of the same class owned by security holders, the last registered address of whom is in Ontario or in a uniform act province, at and for a consideration per security at least equal in value to the greatest consideration paid under any such agreements, and that offer shall be a take-over bid for purposes of this Part.

(1a) For the purpose of calculating the percentage referred to in subsection (1), where two or more persons or companies make offers to purchase jointly or in concert or intending to exercise jointly or in concert any voting rights attaching to the securities to be acquired, then the voting rights attaching to the securities owned by each of them shall be included in the calculation of the percentage that the voting rights attaching to the voting securities of the company or other issuer owned by each of them is of all voting rights attaching to the voting securities of the company or other issuer.

1979

91.— (1) Where a take-over bid is effected without compliance with section 89 in reliance on the exemption in clause c of subsection 2 of section 88, if there is a published market in the class of securities acquired and the value of the consideration paid for any of the securities acquired exceeds the market price at the date of the relevant agreement plus reasonable brokerage fees or other commissions, the offeror shall within 180 days after the date of the first of the agreements comprising the take-over bid, offer to purchase all of the additional securities of the same class owned by security holders, the last registered address of whom is in Ontario or in a uniform act province, at and for a consideration per security at least equal in value to the greatest consideration paid under any such agreements, and that offer shall be a take-over bid for purposes of this Part.

(2) True target companies.— Where a take-over bid, including a take-over bid exempted from the requirements of this Part under subsection 88(2),

(a) results in the acquisition by the offeror of the power or authority to control the business or affairs of the offeree company and, in consequence thereof, the offeror acquires the indirect power or authority to control the business or affairs of another company that is not a private company, herein called the "true target company"; and

(b) forms, to the knowledge of the offeror, part of a series of transactions initiated by a present or former holder of securities of the true target company who formerly had the power or authority to control the business or affairs of the true target company, the principal purpose of which was to permit the indirect sale of some or all of his securities of the true target company in a manner that would avoid the application of subsection (1),

the take-over bid shall, for the purposes of subsection (1), be deemed to constitute a take-over bid for securities of the true target company effected without compliance with section 89 in reliance on the exemption in clause 88(2)(c), at a consideration per security equal to the value per security of the true target company received directly or indirectly by the security holder as a consequence of the series of transactions initiated by him.

1978

(2) Where a take-over bid, including a take-over bid exempted from the requirements of this Part under subsection 2 of section 88,

(a) results in the acquisition by the offeror of the power or authority to control the business or affairs of the offeree company and, in consequence thereof, the offeror acquires the indirect power or authority to control the business or affairs of another company that is not a private company, herein called the "true target company"; and

(b) forms, to the knowledge of the offeror, part of a series of transactions initiated by a present or former holder of securities of the true target company who formerly had the power or authority to control the business or affairs of the true target company, the principal purpose of which was to permit the indirect sale of some or all of his securities of the true target company in a manner that would avoid the application of subsection 1,

the take-over bid shall, for the purposes of subsection 1, be deemed to constitute a take-over bid for securities of the true target company effected without compliance with section 89 in reliance on the exemption in clause c of subsection 2 of section 88, at a consideration per security equal to the value per security of the true target company received directly or indirectly by the security holder as a consequence of the series of transactions initiated by him.

(3) **Premium prohibited.**—Subject to any decision of the Commission under section 99, where a take-over bid or an issuer bid is made, all holders of the same class of securities shall be offered the same consideration and no collateral agreement with any such holders shall have the effect, directly or indirectly, of offering such holders a consideration of greater value for their securities than that offered to the other holders of the same class of securities. 1978, c. 47, s. 91.

92. **Sending by mail.**—A take-over bid, a varied take-over bid, an issuer bid or a varied issuer bid shall be communicated to each offeree by prepaid mail, by personal delivery or in such other manner as the Director may approve and shall be deemed conclusively to have been dated as of the date on which it was mailed, delivered or otherwise communicated. 1978, c. 47, s. 92.

93. **Consideration in cash.**—Where a take-over bid or an issuer bid provides that the consideration for the securities deposited pursuant thereto is to be paid in cash or partly in cash, the offeror shall make adequate arrangements to ensure that the required funds are available to effect payment in full for all securities owned by offerees that the offeror has offered to purchase pursuant to the take-over bid. 1978, c. 47, s. 93.

1978

(3) Subject to any decision of the Commission under section 99, where a take-over bid or an issuer bid is made, all holders of the same class of securities shall be offered the same consideration and no collateral agreement with any such holders shall have the effect, directly or indirectly, of offering such holders a consideration of greater value for their securities than that offered to the other holders of the same class of securities. *New.*

1982

35. Section 92 of the said Act is repealed.

1978

92. A take-over bid, a varied take-over bid, an issuer bid or a varied issuer bid shall be communicated to each offeree by prepaid mail, by personal delivery or in such other manner as the Director may approve and shall be deemed conclusively to have been dated as of the date on which it was mailed, delivered or otherwise communicated. R.S.O. 1970, c. 426, s. 83, *amended*.

1966

DIVISION A—GENERAL PROVISIONS

82. A take-over bid shall be sent by prepaid mail to the offerees and shall be deemed conclusively to have been dated as of the date on which it was so sent. *New.*

1982

36. Section 93 of the said Act is amended by adding at the end thereof "or the issuer bid".

1978

93. Where a take-over bid or an issuer bid provides that the consideration for the securities deposited pursuant thereto is to be paid in cash or partly in cash, the offeror shall make adequate arrangements to ensure that the required funds are available to effect payment in full for all securities owned by offerees that the offeror has offered to purchase pursuant to the take-over bid. R.S.O. 1970, c. 426, s. 85.

1966

84. Where a take-over bid provides that the consideration for the shares deposited pursuant thereto is to be paid in cash or partly in cash, the offeror shall make adequate arrangements to ensure that the required funds are available to effect payment in full for all shares owned by offerees that the offeror has offered to purchase pursuant to the take-over bid. *New.*

1978

94. (1) A take-over bid circular shall form part of or accompany a take-over bid.
- (2) Every take-over bid circular shall be in the form and shall contain the information prescribed by this Part and the regulations.
- (3) Where a take-over bid provides that the consideration for the securities of the offeree company is to be, in whole or in part, securities of an issuer, the take-over bid circular shall contain the additional information prescribed by the regulations. R.S.O. 1970, c. 426, s. 86, *amended*

94.(1) Take-over bid circular.— A take-over bid circular shall form part of or accompany a take-over bid.

(2) Content.— Every take-over bid circular shall be in the form and shall contain the information prescribed by this Part and the regulations.

(3) Consideration in securities.— Where a take-over bid provides that the consideration for the securities of the offeree company is to be, in whole or in part, securities of an issuer, the take-over bid circular shall contain the additional information prescribed by the regulations. 1978, c. 47, s. 94.

1966

85.—(1) A take-over bid circular shall form part of or accompany a take-over bid.

(2) Every take-over bid circular shall contain the information prescribed by Division B of this Part.

(3) Where a take-over bid provides that the consideration for the shares of the offeree company is to be, in whole or in part, securities of a company, the take-over bid circular shall contain the additional information prescribed by Division C of this Part. *Nova.*

1978

95. (1) An issuer bid circular shall form part of or accompany an issuer bid.

(2) Every issuer bid circular shall be in the form and shall contain the information prescribed by this Part and the regulations.

(3) Where an issuer bid provides that the consideration for the securities is to be, in whole or in part, other securities of the issuer, the issuer bid circular shall contain the additional information prescribed by the regulations. *Nova.*

95.(1) Issuer bid circular.—An issuer bid circular shall form part of or accompany an issuer bid.

(2) **Contents.**—Every issuer bid circular shall be in the form and shall contain the information prescribed by this Part and the regulations.

(3) **Consideration in securities.**—Where an issuer bid provides that the consideration for the securities is to be, in whole or in part, other securities of the issuer, the issuer bid circular shall contain the additional information prescribed by the regulations. 1978, c. 47, s. 95.

37. Subsections 96 (5) and (6) of the said Act are repealed and the following substituted therefor:

(5) Where, at the time of sending a directors' circular, the board of directors advises offerees that it is considering recommending acceptance or rejection of a take-over bid, it shall communicate the recommendation or the decision not to make a recommendation to the offerees at least seven days prior to the expiry of the offer.

1978

96.—(1) The board of directors of an offeree company shall send a directors' circular to each offeree not later than ten days from the date of the take-over bid prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 87 (1), *amended*.

(2) The board of directors may include in a directors' circular a recommendation to accept or to reject a take-over bid if it sees fit to do so. *New*.

(3) An individual director or officer may recommend to the offerees acceptance or rejection of the take-over bid made to such offerees if the director or officer sends to each offeree with his communication a circular prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 87 (4), *amended*.

(4) Where a board of directors is considering recommending acceptance or rejection of a take-over bid, it shall, at the time of sending a director's circular, advise the offerees of this fact and may advise them not to tender their securities until further communication is received from the directors. R.S.O. 1970, c. 426, s. 87 (2), *amended*.

(5) Where the board of directors sends a communication under subsection 4, it shall communicate the recommendation or the decision not to make a recommendation to the offerees at least seven days prior to the expiry of the offer. R.S.O. 1970, c. 426, s. 87 (3), *amended*.

(6) All communications required or permitted by this section shall be sent to each offeree by prepaid mail to his latest address as shown on the books of the offeree company. R.S.O. 1970, c. 426, s. 87 (5).

(7) Where an individual director or officer submits a recommendation prepared in accordance with subsection 3 to the board of directors prior to the board of directors sending the directors' circular required by subsection 1, or the further communication permitted by subsection 5, the board of directors shall send a copy of the recommendation of the individual director or officer to the offerees together with the circular or further communication. *New*.

96.(1) Directors' circular.—The board of directors of an offeree company shall send a directors' circular to each offeree not later than ten days from the date of the take-over bid prepared in accordance with the regulations.

(2) Recommendation by board.—The board of directors may include in a directors' circular a recommendation to accept or to reject a take-over bid if it sees fit to do so.

(3) Recommendation by individual director.—An individual director or officer may recommend to the offerees acceptance or rejection of the take-over bid made to such offerees if the director or officer sends to each offeree with his communication a circular prepared in accordance with the regulations.

(4) Advising of consideration.—Where a board of directors is considering recommending acceptance or rejection of a take-over bid, it shall, at the time of sending a director's circular, advise the offerees of this fact and may advise them not to tender their securities until further communication is received from the directors.

(5) Advising of decision of directors.—Where the board of directors sends a communication under subsection (4), it shall communicate the recommendation or the decision not to make a recommendation to the offerees at least seven days prior to the expiry of the offer.

(6) Service.—All communications required or permitted by this section shall be sent to each offeree by prepaid mail to his latest address as shown on the books of the offeree company.

(7) Circulation of recommendation of individual director.—Where an individual director or officer submits a recommendation prepared in accordance with subsection (3) to the board of directors prior to the board of directors sending the directors' circular required by subsection (1), or the further communication permitted by subsection (5), the board of directors shall send a copy of the recommendation of the individual director or officer to the offerees together with the circular or further communication. 1978, c. 47, s. 96.

24. Section 87 of *The Securities Act* is repealed and the following substituted therefor:

- 87.—(1) Where the board of directors of an office company recommends to offerees acceptance or rejection of a take-over bid made to such offerees, the board shall send or cause to be sent to each offeree with this communication a directors' circular, which shall contain the information prescribed by Division D of this Part.
- (2) Where the board of directors is considering sending a circular under subsection 1, it may advise its shareholders of this fact and may advise them not to tender their shares until a further communication is received from the directors.
- (3) Where the board of directors elects to send a communication under subsection 2, it shall send a directors' circular at least seven days prior to the expiry of the offer.
- (4) An individual director or officer may recommend to offerees acceptance or rejection of a take-over bid made to such offerees if the director or officer sends or causes to be sent to each offeree with this communication a circular containing, *mutatis mutandis*, the information required by section 96 relating to his holdings and interest.
- (5) All communications required or permitted by this section shall be sent to each offeree by prepaid mail at his last address as shown on the books of the company.

1966

- 86.—(1) Where the directors of an office company recommend to offerees acceptance or rejection of a take-over bid made to such offerees, the directors shall send or cause to be sent to each offeree a directors' circular, which shall contain the information prescribed by Division D of this Part.
- (2) A directors' circular shall form part of or accompany the communication of the directors and shall be sent to each offeree by prepaid mail at his last address as shown on the books of the company. *Nov.*

1982

38. The said Act is further amended by adding thereto the following section:

96a. Where, while a take-over bid is still outstanding, a significant change has occurred in the information contained in a directors' circular that has been sent to offerees under subsection 96 (1) or a director's or officer's circular that has been sent to offerees under subsection 96 (3), other than a change that is not within the control of the board of directors of the offeree company or the individual director or officer, as the case may be, the board of directors of the offeree company or the individual director or officer, as the case may be, shall forthwith communicate to each offeree an amendment to the circular disclosing the nature and substance of the change.

1982

39. Sections 97 and 98 of the said Act are repealed and the following substituted therefor:

97.—(1) Where a take-over bid is made by or on behalf of an issuer, the contents of the take-over bid circular and of any notice of change or variation shall be approved and the delivery thereof authorized by the directors of the issuer.

(2) Where a take-over bid is made by or on behalf of an issuer, the take-over bid circular and any notice of change or variation shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the issuer.

(3) The contents of a directors' circular and any amendments to a directors' circular shall be approved and the delivery thereof authorized by the directors of the offeree company.

97.(1) Approval of circulars.— Where a take-over bid is made by or on behalf of an issuer, the contents of the take-over bid circular shall be approved and the delivery thereof authorized by the directors of the issuer.

(2) Idem.— Where a take-over bid is made by or on behalf of an issuer, the take-over bid circular shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the issuer.

(3) Idem.— The contents of a directors' circular shall be approved and the delivery thereof authorized by the directors of the offeree company. 1978, c. 47, s. 97.

98. Item. The issuer bid circular shall be approved and the delivery thereof authorized by the directors of the issuer. 1978, c. 47, s. 98.

(4) A directors' circular and any amendments to a directors' circular shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the offeree company.

(5) A recommendation by the board of directors of an offeree company of acceptance or rejection of a take-over bid or a decision by the board of directors of an offeree company not to make such a recommendation shall be approved and the delivery thereof authorized by the directors of the offeree company.

(6) A recommendation by the board of directors of an offeree company of acceptance or rejection of a take-over bid or a decision by the board of directors of an offeree company not to make such a recommendation shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the offeree company.

98.—(1) The contents of an issuer bid circular and any notice of change or variation shall be approved and the delivery thereof authorized by the directors of the issuer.

(2) An issuer bid circular and any notice of change or variation shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the issuer.

1978

97.—(1) Where a take-over bid is made by or on behalf of an issuer, the contents of the take-over bid circular shall be approved and the delivery thereof authorized by the directors of the issuer. R.S.O. 1970, c. 426, s. 89 (1), amended.

(2) Where a take-over bid is made by or on behalf of an issuer, the take-over bid circular shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the issuer. R.S.O. 1970, c. 426, s. 93.

(3) The contents of a directors' circular shall be approved and the delivery thereof authorized by the directors of the offeree company. R.S.O. 1970, c. 426, s. 89 (2), amended.

98. The issuer bid circular shall be approved and the delivery thereof authorized by the directors of the issuer.

1966

88.—(1) Where a take-over bid is made by or on behalf of a company, the contents of the take-over bid circular shall be approved and the delivery thereof authorized by the directors of the company.

(2) The contents of a directors' circular shall be approved and the delivery thereof authorized by the directors of the offeree company. *New.*

92. Where a take-over bid is made by or on behalf of a company, the take-over bid circular shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the offeror. *New.*

1982

15. Section 99 of the said Act is amended by adding thereto the following clause:

(f) change the time periods set out in sections 89 and 90 in their application to take-over bids or issuer bids that are subject to corresponding requirements, but with different time periods, imposed under applicable legislation of Canada or of a province or territory of Canada, and such change shall apply to take-over bids or issuer bids that satisfy the criteria set out in the order of the Commission making the change.

1978

99. Upon an application by an interested person or company, the Commission may, subject to such terms and conditions as it may impose,

(a) decide that an offeror shall not be obligated to comply with subsection 1 of section 91 where the Commission finds that the offeror will not or did not acquire through the offer the power or authority to control the business or affairs of the offeree company;

99. Applications to the Commission.—Upon an application by an interested person or company, the Commission may, subject to such terms and conditions as it may impose,

(a) decide that an offeror shall not be obligated to comply with subsection 91(1) of where the Commission finds that the offeror will not or did not acquire through the offer the power or authority to control the business or affairs of the offeree company;

(b) where the Commission is satisfied that the market price of securities of any class determined in accordance with the regulations, by reference to the price of such securities as established by trades on a published market was affected by an anticipated take-over bid or by improper manipulation, determine the market price of such securities at any date, such determination to be based on a finding by the Commission as to the price at which a holder of securities of that class could reasonably have expected to dispose of his securities immediately prior to the relevant date excluding any change in price reasonably attributable to the anticipated take-over bid or to the improper manipulation;

(c) decide for purposes of section 91 that a consideration proposed to be offered by an offeror is, or is not, at least equal in value to the greatest consideration paid under the relevant agreements;

(d) decide for the purposes of section 91 that a collateral agreement or arrangement with a selling security holder is made for reasons other than to increase the value of the consideration paid to him for his securities and may be entered into notwithstanding that section; and

(e) exempt any person or company from any requirements of this Part where in its opinion it would not be prejudicial to the public interest to do so;

(f) change the time periods set out in sections 89 and 90 in their application to take-over bids or tender bids that are subject to corresponding requirements, but with different time periods, imposed under applicable legislation of Canada or of a province or territory of Canada and such change shall apply to take-over bids or issuer bids that satisfy the criteria set out in the order of the Commission making the change. 1978, c.47, s.99; 1979, c.86, s.15.

1978

(b) where the Commission is satisfied that the market price of securities of any class determined in accordance with the regulations, by reference to the price of such securities as established by trades on a public market, was affected by an anticipated take-over bid or by improper manipulation, determine the market price of such securities at any date, such determination to be based on a finding by the Commission as to the price at which a holder of securities of that class could reasonably have expected to dispose of his securities immediately prior to the relevant date excluding any change in price reasonably attributable to the anticipated take-over bid or to the improper manipulation;

(c) decide for purposes of section 91 that a consideration proposed to be offered by an offeror is, or is not, at least equal in value to the greatest consideration paid under the relevant agreements;

(d) decide for the purposes of section 91 that a collateral agreement or arrangement with a selling security holder is made for reasons other than to increase the value of the consideration paid to him for his securities and may be entered into notwithstanding that section; and

(e) exempt any person or company from any requirements of this Part where in its opinion it would not be prejudicial to the public interest to do so. R.S.O. 1970, c.426, s.90, *amended*

1971

26. Section 90 of *The Securities Act* is repealed and the following substituted therefor:

90. Any person or company may apply to the Commission for an order declaring a take-over bid to be an exempt offer and the Commission may, where in its opinion such an order would not be prejudicial to the public interest, upon such terms or conditions as it may impose, deem the proposed offer to be exempt.

1966

89.—(1) Any person or company may apply to a judge of the High Court designated by the Chief Justice of the High Court for an order declaring a take-over bid to be an exempt offer, and the judge may, upon such terms and conditions as he may impose, order the proposed offer to be exempt.

(2) The applicant shall give the Commission notice of any application under subsection 1, and the Commission has the right to appear and be heard thereon.

(3) An appeal lies to the Court of Appeal from any order made under subsection 1. *New.*

1978

100. The identity of the offeror shall be disclosed in a take-over bid circular. 1971, c. 31, s. 27. *amended.*

100. Naming of offeror.— The identity of the offeror shall be disclosed in a take-over bid circular. 1978, c. 47, s. 100.

1971

27. Section 92 of *The Securities Act* is amended by adding thereto the following subsection:

(2) Where a take-over bid is made for less than all of the outstanding equity shares owned by offerees, the identity of the offeror shall be disclosed in the take-over bid circular.

PART XX

INSIDER TRADING AND SELF DEALING

101(1) Interpretation. — In this Part,

- (a) "mutual fund" means, except in section 107, a mutual fund that is a reporting issuer;
- (b) "related mutual funds" includes more than one mutual fund under common management;
- (c) "related person or company" in relation to a mutual fund means a person in whom, or a company in which, the mutual fund, its management company and its distribution company are prohibited by the provisions of this Part from making any investment.

(2) *Idem.* — For the purpose of this Part,

- (a) any issuer in which a mutual fund holds in excess of 10 per cent of the voting securities or in which the mutual fund and related mutual funds hold in excess of 20 per cent of the voting securities shall be deemed to be a related person or company of that mutual fund or of each of those mutual funds;
- (b) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a security shall be deemed a change in the beneficial ownership of the security to which such put, call or other transferable option relates; and
- (c) for the purpose of reporting under section 102 or 103, ownership shall be deemed to pass at such time as an offer to sell is accepted by the purchaser or his agent or an offer to buy is accepted by the vendor or his agent. 1978, c. 47, s. 101.

101.- (1) In this Part,

- (a) "mutual fund" means, except in section 107, a mutual fund that is a reporting issuer;
- (b) "related mutual funds" includes more than one mutual fund under common management;
- (c) "related person or company" in relation to a mutual fund means a person in whom, or a company in which, the mutual fund, its management company and its distribution company are prohibited by the provisions of this Part from making any investment.

(2) For the purpose of this Part,

- (a) any issuer in which a mutual fund holds in excess of 10 per cent of the voting securities or in which the mutual fund and related mutual funds hold in excess of 20 per cent of the voting securities shall be deemed to be a related person or company of that mutual fund or of each of those mutual funds;
- (b) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a security shall be deemed a change in the beneficial ownership of the security to which such put, call or other transferable option relates; and
- (c) for the purpose of reporting under section 102 or 103, ownership shall be deemed to pass at such time as an offer to sell is accepted by the purchaser or his agent or an offer to buy is accepted by the vendor or his agent. R.S.O. 1970, c. 426, s. 109, *amended*.

40. Clause 101 (2) (b) of the said Act is repealed and the following substituted therefor:

- (b) the acquisition or disposition of a put, call or other option with respect to a security shall be deemed a change in the beneficial ownership of the security to which such put, call or other option relates.

1971

31. Subsection 2 of section 109 of *The Securities Act* is amended by striking out "and" at the end of clause *a*, by adding "and" at the end of clause *b* and by adding thereto the following clause:

- (c) for the purpose of reporting under section 110 or 110*a*, ownership shall be deemed to pass at such time as an offer to sell is accepted by the purchaser or his agent or an offer to buy is accepted by the vendor or his agent.

1970

109.—(1) In this Part,

- (a) "capital security," means any share of any class of shares of a company or any bond, debenture, note or other obligation of a company, whether secured or unsecured;
- (b) "corporation" has the same meaning as in Part X;
- (c) "insider" or "insider of a corporation" means,
 - (i) any director or senior officer of a corporation, directly or indirectly, who beneficially owns, carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding, provided that in computing the percentage of voting rights attached to equity shares owned by an underwriter there shall be excluded any equity shares that have been acquired by him as underwriter in the course of distribution to the public of such shares, but such exclusion ceases to have effect on completion or cessation of the distribution to the public by him, or
 - (ii) any person or company who exercises control or direction over the equity shares of a corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding. 1966, c. 142, s. 108 (1); 1968, c. 123, s. 27.

(2) For the purposes of this Part,

- (a) every director or senior officer of a company that is itself an insider of a corporation shall be deemed to be an insider of such corporation; and
- (b) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a capital security shall be deemed a change in the beneficial ownership of the capital security to which such transferable option relates. 1966, c. 142, s. 108 (2)

27. Clause c of subsection 1 of section 108 of *The Securities Act, 1966* is amended by striking out "or" at the end of subclause i, by adding "or" at the end of subclause ii and by adding thereto the following subclause:

- (iii) any person or company who exercises control or direction over the equity shares of a corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding.

1966

108.—(1) In this Part,

- (a) "capital security" means any share of any class of shares of a company or any bond, debenture, note or other obligation of a company, whether secured or unsecured;
- (b) "corporation" has the same meaning as in Part X;
- (c) "insider" or "insider of a corporation" means,

- (i) any director or senior officer of a corporation, or

- (ii) any person or company who beneficially owns, directly or indirectly, equity shares of a corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding, provided that in computing the percentage of voting rights attached to equity shares owned by an underwriter there shall be excluded any equity shares that have been acquired by him as underwriter in the course of distribution to the public of such shares, but such exclusion ceases to have effect on completion or cessation of the distribution to the public by him.

(2) For the purposes of this Part,

- (a) every director or senior officer of a company that is itself an insider of a corporation shall be deemed to be an insider of such corporation; and
- (b) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a capital security shall be deemed a change in the beneficial ownership of the capital security to which such transferable option relates. *New.*

1982

102.(1) Report.—A person or company who becomes an insider of a reporting issuer other than a mutual fund, shall, within ten days after the end of the month in which he becomes an insider, file a report as of the day on which he became an insider disclosing any direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer as may be required by the regulations.

(2) *Idem.*—A person or company who has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer changes from that shown or required to be shown in the report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the end of the month in which the change takes place, if he was an insider of the reporting issuer at any time during such month, file a report of his direct or indirect beneficial ownership of or his control or direction over securities of the reporting issuer at the end of the month and the change or changes therein that occurred during said month giving such details of each transaction as may be required by the regulations.

(3) *Idem.*—A person or company who becomes an insider of a reporting issuer by reason of subsection 1(8) or (9) shall file the reports required by subsections (1) and (2) of this section for the previous six months or such shorter period that he was a director or officer of the reporting issuer within ten days after the end of the month that the issuer became an insider of a reporting issuer or the reporting issuer became an insider of another reporting issuer as the case may be. 1978, c. 47, s. 102.

41. Sections 102 and 103 of the said Act are repealed and the following substituted therefor:

102.—(1) A person or company who becomes an insider of a reporting issuer, other than a mutual fund, shall, within ten days of becoming an insider, file a report as of the day on which he became an insider disclosing any direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer as may be required by the regulations.

(2) A person or company who has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer changes by a cumulative total of 1 per cent or more in number from that number shown or required to be shown in the report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the change, file a report of his direct or indirect beneficial ownership of or his control or direction over securities of the reporting issuer consequent on the change and the change therein that occurred giving such details of each transaction as may be required by the regulations.

(3) A person or company who has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer changes by less than 1 per cent in number from the number shown or required to be shown in the report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the end of the month in which the change takes place, if he was an insider of the reporting issuer at any time during such month, file a report of his direct or indirect beneficial ownership of or his control or direction over securities of the reporting issuer at the end of the month and the change or changes therein that occurred during the said month giving such details of each transaction as may be required by the regulations.

(4) A person or company who becomes an insider of a reporting issuer by reason of subsection 1 (8) or (9) shall file the reports required by subsections (1) and (2) of this section for the previous six months or such shorter period that he was a director or senior officer of the reporting issuer within ten days of the issuer becoming an insider of the reporting issuer or the reporting issuer becoming an insider of another reporting issuer, as the case may be.

1978

102.--(1) A person or company who becomes an insider of a reporting issuer, other than a mutual fund, shall, within ten days after the end of the month in which he becomes an insider, file a report as of the day on which he became an insider disclosing any direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer as may be required by the regulations.

(2) A person or company who has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer changes from that shown or required to be shown in the report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the end of the month in which the change takes place, if he was an insider of the reporting issuer at any time during such month, file a report of his direct or indirect beneficial ownership of or his control or direction over securities of the reporting issuer at the end of the month and the change or changes therein that occurred during said month giving such details of each transaction as may be required by the regulations. R.S.O. 1970, c. 426, s. 110 (1, 2), *amended*.

(3) A person or company who becomes an insider of a reporting issuer by reason of subsection 8 or 9 of section 1 shall file the reports required by subsections 1 and 2 of this section for the previous six months or such shorter period that he was a director or officer of the reporting issuer within ten days after the end of the month that the issuer became an insider of a reporting issuer or the reporting issuer became an insider of another reporting issuer as the case may be. *New.*

1970

110. —(1) A person or company that becomes an insider of a corporation shall, within ten days after the end of the month in which he becomes an insider, file with the Commission a report as of the day on which he became an insider, of his direct or indirect beneficial ownership of or control or direction over capital securities of the corporation.

(2) If a person or company that is an insider of a corporation, but has no direct or indirect beneficial ownership of or control or direction over capital securities of the corporation, acquires direct or indirect beneficial ownership of or control or direction over any such securities, he shall, within ten days after the end of the month in which he acquired such direct or indirect beneficial ownership or such control or direction, file with the Commission a report, as of the date of such acquisition, of his direct or indirect beneficial ownership of or control or direction over capital securities of the corporation. 1968, c. 123, s. 28 (2), *part*.

(3) A person or company that has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over capital securities of the corporation changes from that shown or required to be shown in such report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the end of the month in which such change takes place, if he was an insider of the corporation at any time, during such month, file with the Commission a report of his direct or indirect beneficial ownership of or his control or direction over capital securities of the corporation at the end of such month and the change or changes therein that occurred during the month giving such details of each transaction as may be required by the regulations. 1968, c. 123, s. 28 (2) *part, amended*.

28. - (1) Section 109 of *The Securities Act, 1966* is amended by adding thereto the following subsection:

- (1a) A person or company that is an insider of a corporation under subclause iii of clause c of subsection 1 of section 108 shall, within ten days after the end of the month in which this subsection comes into force, file with the Commission a report, as of such day, of the direction or control he exercises over the capital securities of the corporation.
- (2) Subsections 2, 3 and 4 of the said section 109 are repealed and the following substituted therefor:
- (2) A person or company that becomes an insider of a corporation shall, within ten days after the end of the month in which he becomes an insider, file with the Commission a report as of the day on which he became an insider, of his direct or indirect beneficial ownership of or control or direction over capital securities of the corporation.
- (3) If a person or company that is an insider of a corporation, but has no direct or indirect beneficial ownership of or control or direction over capital securities of the corporation, acquires direct or indirect beneficial ownership of or control or direction over any such securities, he shall, within ten days after the end of the month in which he acquired such direct or indirect beneficial ownership or such control or direction, file with the Commission a report, as of the date of such acquisition, of his direct or indirect beneficial ownership of or control or direction over capital securities of the corporation.
- (4) A person or company who has filed or is required to file a report under subsection 1, 1a, 2 or 3 and whose direct or indirect beneficial ownership of or control or direction over capital securities of the corporation changes from that shown or required to be shown in such report or in the last report filed by him under this subsection shall, within ten days following the end of the month in which such change takes place, provided that he was an insider of the corporation at any time during such month, file with the Commission a report of his direct or indirect beneficial ownership of or his control or direction over capital securities of the corporation at the end of such month and the change or changes therein that occurred during the month giving such details of each transaction as may be required by

1966

100.—(1) A person or company that is an insider of a corporation on the day on which this Act comes into force shall, within ten days after the end of the month in which such day occurs, file with the Commission a report, as of such day, of his direct or indirect beneficial ownership of capital securities of the corporation.

(2) A person or company that, after the day on which this Act comes into force, becomes an insider of a corporation shall, within ten days after the end of the month in which he becomes an insider, file with the Commission a report, as of the day on which he became an insider, of his direct or indirect beneficial ownership of capital securities of the corporation.

(3) If a person or company that is an insider of a corporation, but has no direct or indirect beneficial ownership of capital securities of the corporation, acquires direct or indirect beneficial ownership of any such securities, he shall, within ten days after the end of the month in which he acquired such direct or indirect beneficial ownership, file with the Commission a report, as of the date of such acquisition, of his direct or indirect beneficial ownership of capital securities of the corporation.

(4) A person or company who has filed or is required to file a report under subsection 1, 2 or 3 and whose direct or indirect beneficial ownership of capital securities of the corporation changes from that shown or required to be shown in such report or in the last report filed by him under this subsection shall, within ten days following the end of the month in which such change takes place, provided that he was an insider of the corporation at any time during such month, file with the Commission a report of his direct or indirect beneficial ownership of capital securities of the corporation at the end of such month and the change or changes therein that occurred during the month and giving such details of each transaction as may be required by the regulations. *Am.*

1982

41.

103.(1) Report of offeror.—Where a person or company becomes the beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 20 per cent or more of the voting rights attached to all voting securities for the time being outstanding, through purchases effected through a take-over bid or issuer bid exempted from the requirements of Part XIX by subsection 88(2) or (3), such person or company shall file a report as of the day on which he acquired the ownership within three days of acquiring such 20 per cent ownership.

(2) *Idem.*—A person or company who is the beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 20 per cent or more of the voting rights attached to all voting securities for the time being outstanding shall, within three days of purchasing further voting securities carrying an additional 5 per cent of the voting rights, file a report as of the day on which he acquired an additional 5 per cent of the voting rights and thereafter each time he acquires a further 5 per cent.

(3) *Idem.*—Where the facts required to be reported by this section are identical to those required under section 102, a separate report under section 102 is not required. 1978, c. 47, s. 103.

103.—(1) Where a person or company becomes the beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 10 per cent or more of the voting rights that would be attached to all voting securities that would be outstanding on the exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities, through purchases effected through a take-over bid or issuer bid exempted from the requirements of Part XIX by subsection 88 (2) or (3), such person or company shall file a report as of the day on which he acquired the ownership within three days of acquiring such 10 per cent ownership.

(2) A person or company who is the beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 10 per cent or more of the voting rights that would be attached to all voting securities that would be outstanding on the exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities shall, within three days of purchasing further voting securities carrying an additional 5 per cent of the voting rights, file a report as of the day on which he acquired an additional 5 per cent of the voting rights and thereafter each time he acquires a further 5 per cent.

(3) Where the facts required to be reported by this section are identical to those required under section 102, a separate report under section 102 is not required.

103a.—(1) Where a person or company, other than an offeror as defined in subsection 88 (1), purchases for his or its own account, directly or indirectly, voting securities, as defined in subsection 88 (1) of a reporting issuer carrying 2.5 per cent or more of the voting rights that would be attached to all voting securities that would be outstanding on the exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities, while a take-over bid that is subject to the requirements of Part XIX is outstanding, such person or company shall file by 10 o'clock in the forenoon of the next business day a report, as of the day on which he acquired the ownership, and where two or more persons or companies make purchases jointly or in concert or intending to exercise jointly or in concert any voting rights attaching to the securities so acquired, then the voting rights attaching to the securities purchased by each of them shall be included in the calculation of the percentage that the voting rights attaching to the voting securities of the reporting issuer purchased by each of them is.

voting rights that would be attached to all voting securities that would be outstanding on exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities.

(2) Where the facts required to be reported by subsection (1) are identical to those required under section 102 or subsection 103 (2), a separate report under section 102 or subsection 103 (2) is not required.

1978

103. (1) Where a person or company becomes the beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 20 per cent or more of the voting rights attached to all voting securities for the time being outstanding, through purchases effected through a take-over bid or issuer bid exempted from the requirements of Part XIX by subsection 2 or subsection 3 of section 88, such person or company shall file a report as of the day on which he acquired the ownership within three days of acquiring such 20 per cent ownership.

(2) A person or company who is the beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 20 per cent or more of the voting rights attached to all voting securities for the time being outstanding shall, within three days of purchasing further voting securities carrying an additional 5 per cent of the voting rights, file a report as of the day on which he acquired an additional 5 per cent of the voting rights and thereafter each time he acquires a further 5 per cent.

(3) Where the facts required to be reported by this section are identical to those required under section 102, a separate report under section 102 is not required. 1971, c. 31, s. 33, amended.

(see 1971, 330 s.32 below)

1971

32. *The Securities Act* is amended by adding thereto the following section:

110a (1) Where an offeror as defined in Part IX becomes an insider under this Part or *The Business Corporations Act* and through purchases effected through the facilities of a stock exchange or in the over-the-counter market becomes the beneficial owner, directly or indirectly, of equity shares of a corporation carrying 20 per cent or more of the voting rights attached to all equity shares of the corporation for the time being outstanding, such offeror, within three days of acquiring such 20 per cent ownership, shall file with the Commission a report as of the day on which he attained such ownership

(2) An offeror required to file a report under subsection 1 shall, within three days of purchasing further equity shares carrying an additional 5 per cent of the voting rights through the facilities of a stock exchange or in the over-the-counter market file with the Commission a report as of the day on which he attained the additional 5 per cent of the voting rights and thereafter each time he acquires a further 5 per cent

(3) Where the facts required to be reported by this section are identical to those required under section 110, a separate report under section 110 is not required.

104. Report of transfer by insider.—No insider of a reporting issuer shall transfer or cause to be transferred any securities of the reporting issuer into the name of an agent, nominee or custodian without delivering to the Commission a report of such transfer in accordance with the regulations except for a transfer for the purpose of giving collateral for a *bona fide* debt. 1978, c. 47, s. 104.

105. Report of transfer by insider.—Where voting securities are registered in the name of a person or company other than the beneficial owner and the person or company knows that they are beneficially owned by an insider and that the insider has failed to file a report of such ownership with the Commission as required by this Part, the person or company shall file a report in accordance with the regulations except where the transfer was for the purpose of giving collateral for a *bona fide* debt. 1978, c. 47, s. 105.

106. Interpretation.—For the purposes of sections 107, 108, 109, 110 and 111.

(a) "investment" means a purchase of any security of any class of securities of an issuer including bonds, debentures, notes, or other evidences of indebtedness thereof, and a loan to persons or companies but does not include an advance or loan, whether secured or unsecured, that is made by a mutual fund, its management company or its distribution company that is merely ancillary to the main business of the mutual fund, its management company or its distribution company;

(b) a person or company or a group of persons or companies has a significant interest in an issuer, if:

(i) in the case of a person or company, he or it, as the case may be, owns beneficially, either directly or indirectly, more than 10 per cent, or

(ii) in the case of a group of persons or companies, they own beneficially, either individually or together and either directly or indirectly, more than 50 per cent, of the outstanding shares or units of the issuer;

(c) a person or company or a group of persons or companies is a substantial security holder of an issuer if that person or company or group of persons or companies owns beneficially, either individually or together or directly or indirectly, voting securities to which are attached more than 20 per cent of the voting rights attached to all the voting securities of the issuer for the time being outstanding, but in computing the percentage of voting rights attached to voting securities owned by an underwriter, there shall be excluded any voting securities acquired by him as underwriter in a distribution of such securities but such exclusion ceases to have effect on completion or cessation of the distribution by him;

104. No insider of a reporting issuer shall transfer or cause to be transferred any securities of the reporting issuer into the name of an agent, nominee or custodian without delivering to the Commission a report of such transfer in accordance with the regulations except for a transfer for the purpose of giving collateral for a *bona fide* debt. *Ncw.*

105. Where voting securities are registered in the name of a person or company other than the beneficial owner and the person or company knows that they are beneficially owned by an insider and that the insider has failed to file a report of such ownership with the Commission as required by this Part, the person or company shall file a report in accordance with the regulations except where the transfer was for the purpose of giving collateral for a *bona fide* debt. *Ncw.*

106. For the purposes of sections 107, 108, 109, 110 and 111.

(a) "investment" means a purchase of any security of any class of securities of an issuer including bonds, debentures, notes, or other evidences of indebtedness thereof, and a loan to persons or companies but does not include an advance or loan, whether secured or unsecured, that is made by a mutual fund, its management company or its distribution company that is merely ancillary to the main business of the mutual fund, its management company or its distribution company;

(b) a person or company or a group of persons or companies has a significant interest in an issuer, if,

(i) in the case of a person or company, he or it, as the case may be, owns beneficially, either directly or indirectly, more than 10 per cent, or

(ii) in the case of a group of persons or companies, they own beneficially, either individually or together and either directly or indirectly, more than 50 per cent of the outstanding shares or units of the issuer;

(d) where a person or company or group of persons or companies owns beneficially, directly or indirectly, or pursuant to this clause is deemed to own beneficially, voting securities of an issuer, that person or company or group of persons or companies shall be deemed to own beneficially a proportion of voting securities of any other issuer that are owned beneficially, directly or indirectly, by the first mentioned issuer, which proportion shall equal the proportion of the voting securities of the first mentioned issuer that are owned beneficially, directly or indirectly, or that pursuant to this clause are deemed to be owned beneficially, by that person or company or group of persons or companies. 1978, c. 47, s. 106.

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(c) a person or company or a group of persons or companies is a substantial security holder of an issuer if that person or company or group of persons or companies owns beneficially, either individually or together or directly or indirectly, voting securities to which are attached more than 20 per cent of the voting rights attached to all the voting securities of the issuer for the time being outstanding, but in computing the percentage of voting rights attached to voting securities owned by an underwriter, there shall be excluded any voting securities acquired by him as underwriter in a distribution of such securities but such exclusion ceases to have effect on completion or cessation of the distribution by him;

(d) where a person or company or group of persons or companies owns beneficially, directly or indirectly, or pursuant to this clause is deemed to own beneficially, voting securities of an issuer, that person or company or group of persons or companies shall be deemed to own beneficially a proportion of voting securities of any other issuer that are owned beneficially, directly or indirectly, by the first mentioned issuer, which proportion shall equal the proportion of the voting securities of the first mentioned issuer that are owned beneficially, directly or indirectly, or that pursuant to this clause are deemed to be owned beneficially, by that person or company or group of persons or companies. *New.*

1978

107(1) Loans of mutual funds in Ontario.—No mutual fund in Ontario shall knowingly make an investment by way of loan to,

(a) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them;

(b) any individual, where the individual or an associate of the individual is a substantial security holder of the mutual fund, its management company or distribution company.

107.—(1) No mutual fund in Ontario shall knowingly make an investment by way of loan to,

(a) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them,

(b) any individual, where the individual or an associate of the individual is a substantial security holder of the mutual fund, its management company or distribution company.

(2) Investments of mutual funds, etc. — No mutual fund in Ontario shall knowingly make an investment,

- (a) in any person or company who is a substantial security holder of the mutual fund, its management company or distribution company;
- (b) in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder; or
- (c) in an issuer in which,
 - (i) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them, or
 - (ii) any person or company who is a substantial security holder of the mutual fund, its management company or its distribution company, has a significant interest.

(3) Divesting of prohibited loans and investments. — No mutual fund in Ontario or its management company or its distribution company shall knowingly hold an investment made after the coming into force of this Act that is an investment described in this section. 1978, c. 47, s. 107.

108. Indirect investment. — No mutual fund or its management company or its distribution company shall knowingly enter into any contract or other arrangement that results in its being directly or indirectly liable or contingently liable in respect of any investment by way of loan to, or other investment in, a person or company to whom it is by section 107 prohibited from making a loan or in which it is prohibited from making any other investment, and for the purpose of section 107 any such contract or other arrangement shall be deemed to be a loan or an investment, as the case may be. 1978, c. 47, s. 108.

109. Relieving orders. — Upon an application of an interested person or company, the Commission may, where it is satisfied,

- (a) that a class of investment or a particular investment represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of a mutual fund; or
- (b) that a particular investment is in fact in the best interests of a mutual fund.

order, subject to such terms and conditions as it may impose, that section 107 or 108 does not apply to the class of investment, particular investment, contract or other arrangement, as the case may be. 1978, c. 47, s. 109.

(2) No mutual fund in Ontario shall knowingly make an investment,

- (a) in any person or company who is a substantial security holder of the mutual fund, its management company or distribution company;
- (b) in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder; or
- (c) in an issuer in which,
 - (i) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them, or
 - (ii) any person or company who is a substantial security holder of the mutual fund, its management company or its distribution company, has a significant interest.

(3) No mutual fund in Ontario or its management company or its distribution company shall knowingly hold an investment made after the coming into force of this Act that is an investment described in this section. *New.*

108. No mutual fund or its management company or its distribution company shall knowingly enter into any contract or other arrangement that results in its being directly or indirectly liable or contingently liable in respect of any investment by way of loan to, or other investment in, a person or company to whom it is by section 107 prohibited from making a loan or in which it is prohibited from making any other investment, and for the purpose of section 107 any such contract or other arrangement shall be deemed to be a loan or an investment, as the case may be. *New.*

109. Upon an application of an interested person or company, the Commission may, where it is satisfied,

- (a) that a class of investment or a particular investment represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of a mutual fund; or
- (b) that a particular investment is in fact in the best interests of a mutual fund,

order, subject to such terms and conditions as it may impose, that section 107 or 108 does not apply to the class of investment, particular investment, contract or other arrangement, as the case may be. *New.*

1978

110. Exception to s. 106(d).—Notwithstanding clause 106(d), a mutual fund is not prohibited from making an investment in an issuer only because a person or company or a group of persons or companies who own beneficially, directly or indirectly, or are deemed to own beneficially, voting securities of the mutual fund or its management company or its distribution company are by reason thereof deemed to own beneficially voting securities of the issuer. 1978, c. 47, s. 110.

111.(1) Fees on investment.—No mutual fund shall make any investment in consequence of which a related person or company of the mutual fund will receive any fee or other compensation except fees paid pursuant to a contract which is disclosed in any preliminary prospectus or prospectus, or any amendment to either of them, that is filed by the mutual fund and is accepted by the Director.

(2) Relieving orders.—The Commission may, upon the application of a mutual fund and where it is satisfied that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection (1) does not apply to the mutual fund. 1978, c. 47, s. 111.

112.(1) Standard of care for management of mutual fund.—Every person or company responsible for the management of a mutual fund shall exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the mutual fund, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

(2) Idem.—For the purposes of subsection (1), a person or company is responsible for the management of a mutual fund if he has legal power or right to control the mutual fund or if in fact he is able to do so. 1978, c. 47, s. 112.

110. Notwithstanding clause d of section 106, a mutual fund is not prohibited from making an investment in an issuer only because a person or company or a group of persons or companies who own beneficially, directly or indirectly, or are deemed to own beneficially, voting securities of the mutual fund or its management company or its distribution company are by reason thereof deemed to own beneficially voting securities of the issuer. *New.*

111.—(1) No mutual fund shall make any investment in consequence of which a related person or company of the mutual fund will receive any fee or other compensation except fees paid pursuant to a contract which is disclosed in any preliminary prospectus or prospectus, or any amendment to either of them, that is filed by the mutual fund and is accepted by the Director.

(2) The Commission may, upon the application of a mutual fund and where it is satisfied that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection 1 does not apply to the mutual fund. *New.*

112.—(1) Every person or company responsible for the management of a mutual fund shall exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the mutual fund, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

(2) For the purposes of subsection 1, a person or company is responsible for the management of a mutual fund if he has legal power or right to control the mutual fund or if in fact he is able to do so. *New.*

1978

113.(1) Filing by management companies.—Every management company shall file a report prepared in accordance with the regulations of,

- (a) every transaction of purchase or sale of securities between the mutual fund and any related person or company;
- (b) every loan received by the mutual fund from, or made by the mutual fund to, any of its related persons or companies;
- (c) every purchase or sale effected by the mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or from both; and

- (d) any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies.

in respect of each mutual fund to which it provides services or advice, within thirty days after the end of the month in which it occurs.

(2) Relieving orders.—The Commission may, upon the application of the management company of a mutual fund and where it is of the opinion that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection (1) does not apply to any transaction or class of transactions. 1978, c. 47, s. 113.

113.—(1) Every management company shall file a report prepared in accordance with the regulations of,

- (a) every transaction of purchase or sale of securities between the mutual fund and any related person or company;
- (b) every loan received by the mutual fund from, or made by the mutual fund to, any of its related persons or companies;
- (c) every purchase or sale effected by the mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or from both; and
- (d) any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies,

in respect of each mutual fund to which it provides services or advice, within thirty days after the end of the month in which it occurs.

(2) The Commission may, upon the application of the management company of a mutual fund and where it is of the opinion that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection 1 does not apply to any transaction or class of transactions. *N.A.*

114.(1) "responsible person" defined. — In this section, "responsible person" means a portfolio manager and every individual who is a partner, director or officer of a portfolio manager together with every affiliate of a portfolio manager and every individual who is a director, officer or employee of such affiliate or who is an employee of the portfolio manager, if the affiliate or the individual participates in the formulation of, or has access prior to implementation to investment decisions made on behalf of or the advice given to the client of the portfolio manager.

(2) Interest of manager in investment portfolio. — The portfolio manager shall not knowingly cause any investment portfolio managed by it to,

- (a) invest in any issuer in which a responsible person or an associate of a responsible person is an officer or director unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained before the purchase;
- (b) purchase or sell the securities of any issuer from or to the account of a responsible person, any associate of a responsible person or the portfolio manager; or
- (c) make a loan to a responsible person or an associate of a responsible person or the portfolio manager.

(3) Exemption of portfolio managers on terms and conditions. — Where the Commission determines that a portfolio manager or a class of portfolio managers is subject to regulations, imposed by a self-regulatory organization, to substantially the same effect as the requirements set out in subsection (2), the Commission may, subject to such terms and conditions as the Commission may impose, exempt the portfolio manager or class of portfolio managers from the requirements of subsection (2). 1978, c. 47, s. 114.

115. Trades by mutual fund insiders. — No person or company who has access to information concerning the investment program of a mutual fund or the investment portfolio managed for a client by a portfolio manager shall purchase or sell securities of an issuer for his or its account where the portfolio securities of the mutual fund or the investment portfolio managed for a client by a portfolio manager include securities of that issuer and where the information is used by the person or company for his or its direct benefit or advantage. 1978, c. 47, s. 115.

1978

114. (1) In this section, "responsible person" means a portfolio manager and every individual who is a partner, director or officer of a portfolio manager together with every affiliate of a portfolio manager and every individual who is a director, officer or employee of such affiliate or who is an employee of the portfolio manager, if the affiliate or the individual participates in the formulation of, or has access prior to implementation to investment decisions made on behalf of or the advice given to the client of the portfolio manager.

(2) The portfolio manager shall not knowingly cause any investment portfolio managed by it to,

- (a) invest in any issuer in which a responsible person or an associate of a responsible person is an officer or director unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained before the purchase;
- (b) purchase or sell the securities of any issuer from or to the account of a responsible person, any associate of a responsible person or the portfolio manager; or
- (c) make a loan to a responsible person or an associate of a responsible person or the portfolio manager

(3) Where the Commission determines that a portfolio manager or a class of portfolio managers is subject to regulations, imposed by a self-regulatory organization, to substantially the same effect as the requirements set out in subsection 2, the Commission may, subject to such terms and conditions as the Commission may impose, exempt the portfolio manager or class of portfolio managers from the requirements of subsection 2. *Nec.*

115. No person or company who has access to information concerning the investment program of a mutual fund or the investment portfolio managed for a client by a portfolio manager shall purchase or sell securities of an issuer for his or its account where the portfolio securities of the mutual fund or the investment portfolio managed for a client by a portfolio manager include securities of that issuer and where the information is used by the person or company for his or its direct benefit or advantage. *Nec.*

116. Publication of summaries of reports.—The Commission shall summarize in or as a part of a monthly periodical available to the public on payment of a reasonable fee the information contained in every report filed in compliance with this Part. 1978, c. 47, s. 116.

1982

42. Section 116 of the said Act is repealed and the following substituted therefor:

116. The Commission shall summarize in or as a part of a periodical published at least monthly and available to the public on payment of a reasonable fee the information contained in every report filed in compliance with this Part.

1978

116. The Commission shall summarize in or as a part of a monthly periodical available to the public on payment of a reasonable fee the information contained in every report filed in compliance with this Part. R.S.O. 1970, c. 426, s. 111 (2).

1966

110 (2) The Commission shall summarize in or as part of a monthly periodical for distribution to the public on payment of a reasonable fee therefor the information contained in the reports so filed. *New.*

1978

117(1) Filing in other jurisdiction.—Where the laws of the jurisdiction in which the reporting issuer is incorporated, organized or continued require substantially the same reports in that jurisdiction as are required by this Part, the filing requirements of this Part may be complied with by filing the reports required by the laws of such jurisdiction manually signed or certified in accordance with the regulations.

(2) Exemptions by order of Commission.—Subject to subsection (1), the Commission may,

(a) upon the application of an interested person or company,

(i) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued, or

(ii) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing; or

(b) of its own motion,

make an order on such terms and conditions as seem to the Commission just and expedient, exempting in whole or in part, a person or company, or persons or companies or class of transactions from the requirements of this Part. 1978, c. 47, s. 117.

117.—(1) Where the laws of the jurisdiction in which the reporting issuer is incorporated, organized or continued require substantially the same reports in that jurisdiction as are required by this Part, the filing requirements of this Part may be complied with by filing the reports required by the laws of such jurisdiction manually signed or certified in accordance with the regulations. *New.*

(2) Subject to subsection 1, the Commission may, (a) upon the application of an interested person or company,

(i) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued, or

(ii) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing; or

(b) of its own motion,

make an order on such terms and conditions as seem to the Commission just and expedient, exempting in whole or in part, a person or company, class of persons or companies or class of transactions from the requirements of this Part. R.S.O. 1970, c. 426, s. 116 (1), amended.

1971

36. Subsection 1 of section 116 of *The Securities Act* is repealed and the following substituted therefor:

- (1) Upon the application of an interested person or company, the Commission may,
- (a) if a requirement of section 110 or 110a conflicts with a requirement of the laws of the jurisdiction in which a corporation is incorporated; or
 - (b) if the laws of the jurisdiction to which the corporation is subject contain substantially similar requirements as contained in sections 110 and 110a; or
 - (c) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,
- make an order on such terms and conditions as seem to the Commission just and expedient exempting, in whole or in part, a person or company from the requirements of sections 110 and 110a

1966

116.—(1) Upon the application of an interested person or company, the Commission may,

- (a) if a requirement of section 109 conflicts with a requirement of the laws of the jurisdiction in which a corporation is incorporated; or
- (b) if the laws of the jurisdiction to which the corporation is subject contain substantially similar requirements as contained in section 109; or
- (c) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as seem to the Commission just and expedient exempting, in whole or in part, a person or company from the requirements of section 109.

- (2) An insider of a corporation who is subject to this Part by virtue only of subclause i of clause a of section 100 ceases to be subject to this Part if the corporation does not have owners of its equity shares whose last address as shown on the books of the corporation is in Ontario. *New.*

1978

PART XXI ENFORCEMENT

118.(1) Offences, general.— Every person or company who,

- (a) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (b) makes a statement in any application, release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular, issuer bid circular or other document required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

- (c) contravenes this Act or the regulations; or
- (d) fails to observe or to comply with any direction, ruling, order or other requirement made under this Act or the regulations,

is guilty of an offence and on summary conviction is liable, in the case of a person, other than an individual, or company, to a fine of not more than \$25,000 and, in the case of an individual, to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

- (2) Defence.— No person or company is guilty of an offence under clause (1)(a) or (b) if he or it, as the case may be, did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation.

- (3) Directors and officers.— Where a company or a person other than an individual is guilty of an offence under subsection (1), every director or officer of such company or person who authorized, permitted, or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. 1978, c. 47, s. 118.

118. (1) Every person or company who,

- (a) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

- (b) makes a statement in any application, release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular, issuer bid circular or other document required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

- (c) contravenes this Act or the regulations; or

- (d) fails to observe or to comply with any direction, decision, ruling, order or other requirement made under this Act or the regulations,

is guilty of an offence and on summary conviction is liable, in the case of a person, other than an individual, or company, to a fine of not more than \$25,000 and, in the case of an individual, to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

- (2) No person or company is guilty of an offence under clause a or b of subsection 1 if he or it, as the case may be, did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation.

- (3) Where a company or a person other than an individual is guilty of an offence under subsection 1, every director or officer of such company or person who authorized, permitted, or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1970, c. 426, s. 137 (1-3), amended.

137.—(1) Every person or company that,

- (a) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or to any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading;
- (b) makes a statement in any application, report, prospectus, return, financial statement or other document, required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading;
- (c) contravenes this Act or the regulations; or
- (d) fails to observe or comply with any order, direction or other requirement made under this Act or the regulations,

is, except where such conduct also constitutes an offence under Parts IX, X, XI and XII, guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. 1966, c. 142, s. 136 (1); 1968, c. 123, s. 38.

(2) No person or company is guilty of an offence under clause *a* or *b* of subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

(3) Where a company is guilty of an offence under subsection 1, every director or officer of such company who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(4) Notwithstanding subsection 1, where a company is convicted thereunder, the maximum fine that may be imposed is \$25,000. 1966, c. 142, s. 136 (2-4)

1968

38. Clause *a* of subsection 1 of section 136 of *The Securities Act, 1966* is amended by striking out "or the Registrar" in the fourth line.

1966

136.—(1) Every person or company who,

(a) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission or the Registrar, or the Director or the Registrar or to any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading;

(b) makes a statement in any application, report, prospectus, return, financial statement or other document, required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading;

(c) contravenes this Act or the regulations; or

(d) fails to observe or comply with any order, direction or other requirement made under this Act or the regulations,

is, except where such conduct also constitutes an offence under Parts IX, X, XI and XII, guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) No person or company is guilty of an offence under clause *a* or *b* of subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

(3) Where a company is guilty of an offence under subsection 1, every director or officer of such company who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(4) Notwithstanding subsection 1, where a company is convicted thereunder, the maximum fine that may be imposed is \$25,000 1964, c. 107, s. 2, *amended*.

119. Consent of Minister.—No proceedings under section 118 shall be instituted except with the consent or under the direction of the Minister. 1978, c. 47, s. 119.

1978

119. No proceedings under section 118 shall be instituted except with the consent or under the direction of the Minister. R.S.O. 1970, c. 426, s. 138 (1).

1966

137.—(1) No proceedings under section 99 or 136 shall be instituted except with the consent or under the direction of the Minister.

1970

120. Information containing more than one offence.—An information in respect of any contravention of this Act may be for one or more offences, and no information, summons, warrant, conviction or other proceeding in any prosecution is objectionable, or insufficient by reason of the fact that it relates to two or more offences. 1978, c. 47, s. 120.

120. An information in respect of any contravention of this Act may be for one or more offences, and no information, summons, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. 1966, c. 142, s. 138, amended.

1966

138. An information or complaint in respect of any contravention of this Act may be for one or more offences, and no information, complaint, summons, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1960, c. 363, s. 66.

121(1) Execution of warrant issued in another province.—Where a provincial judge, magistrate or justice of Canada issues a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province or territory similar to this Act, any provincial judge or justice of Ontario within whose jurisdiction that person is or is suspected to be, may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or a justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the provincial judge or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Ontario and to rearrest such person anywhere in Ontario.

(2) Prisoner in transit.—Any constable of Ontario or of any other province or territory of Canada who is passing through Ontario having in his custody a person arrested in another province or territory under a warrant endorsed under subsection (1) is entitled to hold, take and rearrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. 1978, c. 47, s. 121.

149.—(1) Where a provincial judge, magistrate or justice of another province or territory of Canada issues a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province or territory similar to this Act, any provincial judge or justice of Ontario within whose jurisdiction that person is or is suspected to be may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the provincial judge or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Ontario and to rearrest such person anywhere in Ontario.

(2) Any constable of Ontario or of any other province or territory of Canada who is passing through Ontario having in his custody a person arrested in another province or territory under a warrant endorsed under subsection 1 is entitled to hold, take and rearrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. 1969 c. 112, s. 146, *amended*.

1966

140.—(1) Where a magistrate or justice of another province issues a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province similar to this Act, any magistrate or justice of Ontario within whose jurisdiction that person is or is suspected to be may, upon satisfactory proof of the handwriting of the magistrate or justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the magistrate or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Ontario and to rearrest such person anywhere in Ontario.

(2) Any constable of Ontario or of any other province of Canada who is passing through Ontario having in his custody a person arrested in another province under a warrant endorsed in pursuance of subsection 1 is entitled to hold, take and rearrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. R.S.O. 1960, c. 363, s. 74.

122.(1) Order for compliance.—Where it appears to the Commission that any person or company has failed to comply with or is violating any decision or any provision of this Act or the regulations, the Commission may, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, apply to a judge of the High Court for an order,

(a) directing the person or company to comply with the decision or provision or restraining the person or company from violating the decision or provision; and

(b) directing the directors and senior officers of the person or company to cause the person or company to comply with or to cease violating the decision or provision,

and upon the application the judge may make such order, or such other order as he thinks fit.

(2) Appeal.—An appeal lies to the Supreme Court from an order made under subsection (1). 1978, c. 47, s. 122.

- 345 -

1978

122.

(1) Where it appears to the Commission that any person or company has failed to comply with or is violating any decision or any provision of this Act or the regulations, the Commission may, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, apply to a judge of the High Court for an order,

(a) directing the person or company to comply with the decision or provision or restraining the person or company from violating the decision or provision, and

(b) directing the directors and senior officers of the person or company to cause the person or company to comply with or to cease violating the decision or provision,

and upon the application the judge may make such order, or such other order as he thinks fit.

(2) An appeal lies to the Supreme Court from an order made under subsection 1. R.S.O. 1970, c. 426, s. 143, amended.

1970

143.—(1) Where it appears to the Commission that any person or company has failed to comply with or is violating any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, the Commission may apply to a judge of the High Court designated by the Chief Justice of the High Court for an order directing such person or company to comply with such provision or for an order restraining such person or company from violating such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Court of Appeal from an order made under subsection 1. 1968, c. 123, s. 40, part.

123.(1) Order to cease trading.—The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that trading shall cease in respect of any securities for such period as is specified in the order.

(2) *Idem.*—The Commission may issue a cease trading order under subsection (1) notwithstanding the delivery of a report to it pursuant to subsection 74(3).

(3) Temporary order.—No order shall be made under subsection (1) or (2) without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, which shall not be for longer than fifteen days from the date of the making thereof, but the order may be extended for such period as the Commission considers necessary where satisfactory information is not provided to the Commission within the fifteen day period. 1978, c. 47, s. 123.

123.—(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that trading shall cease in respect of any securities for such period as is specified in the order. R.S.O. 1970, c. 426, s. 144 (1).

(2) The Commission may issue a cease trading order under subsection 1 notwithstanding the delivery of a report to it pursuant to subsection 3 of section 74. *New.*

(3) No order shall be made under subsection 1 or 2 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, which shall not be for longer than fifteen days from the date of the making thereof, but the order may be extended for such period as the Commission considers necessary where satisfactory information is not provided to the Commission within the fifteen day period. R.S.O. 1970, c. 426, s. 144 (2), *amended*.

144.—(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that trading shall cease in respect of such securities for such period as is specified in the order.

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, which shall expire fifteen days from the date of the making thereof, but such order may be extended for such period as the Commission considers necessary where satisfactory information is not provided to the Commission within the fifteen-day period.

(3) The Commission may give notice of its intention to make an order or to hold a hearing under this section by publication in a newspaper of general circulation or in such other manner and to such persons as the Commission thinks fit. 1968, c. 123, s. 40, *part*.

1968

40. *The Securities Act, 1966* is amended by adding thereto the following sections:

141a.—(1) Where it appears to the Commission that any person or company has failed to comply with or is violating any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, the Commission may apply to a judge of the High Court designated by the Chief Justice of the High Court for an order directing such person or company to comply with such provision or for an order restraining such person or company from violating such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Court of Appeal from an order made under subsection 1.

141b.—(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that trading shall cease in respect of such securities for such period as is specified in the order.

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, which shall expire fifteen days from the date of the making thereof, but such order may be extended for such period as the Commission considers necessary where satisfactory information is not provided to the Commission within the fifteen-day period.

(3) The Commission may give notice of its intention to make an order or to hold a hearing under this section by publication in a newspaper of general circulation or in such other manner and to such persons as the Commission thinks fit.

1982

124.(1) Commission's discretion to remove exemptions.— The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that any or all of the exemptions contained in sections 34, 71, 72 and 88 do not apply to the person or company named in the order.

(2) Temporary order and hearing.— No order shall be made under subsection (1) without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall not be for longer than fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded.

(3) Notice.— Notice of a temporary order made under subsection (2) shall be given forthwith together with the notice of the hearing under subsection (2) to every person or company who in the opinion of the Commission is directly affected thereby. 1978, c. 47, s. 124.

133. Subsection 124 (1) of the said Act is repealed and the following substituted therefor:

(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that any or all of the exemptions contained in sections 33, 34, 71, 72 and 88 and in the regulations providing for exemptions from sections 24, 52 and 61 of the Act do not apply to the person or company named in the order.

1978

124. (1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that any or all of the exemptions contained in sections 34, 71, 72 and 88 do not apply to the person or company named in the order

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall not be for longer than fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded.

(3) Notice of a temporary order made under subsection 2 shall be given forthwith together with the notice of the hearing under subsection 2 to every person or company who in the opinion of the Commission is directly affected thereby. R.S.O. 1970, c. 426, s. 19 (5-7), *amended*

1966

5. A trade in a security that may occasionally be transacted by employees of a person or company registered for trading in securities under this Act where the employees do not usually sell securities to the public and have been designated by the Director as "non-trading" employees, either individually or as a class.
6. A trade between a person or company and an underwriter acting as purchaser, and trades between or among underwriters.
7. A trade in a security by a person or company acting solely through an agent who is a person or company registered for trading in securities under this Act.

125.(1) Limitation period.—No proceedings under this Part shall be commenced in a court more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

(2) *Idem.*—No proceedings under this Act shall be commenced before the Commission more than two years after the facts upon which the proceedings are based first came to the knowledge of the Commission. 1978, c. 47, s. 125.

1978

125. (1) No proceedings under this Part shall be commenced in a court more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

(2) No proceedings under this Act shall be commenced before the Commission more than two years after the facts upon which the proceedings are based first came to the knowledge of the Commission. R.S.O. 1970, c. 126, s. 138, (2.5), amended

1970

138.

(2) No proceedings in a court under this Act shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission. 1966, c. 142, s. 137 (2), 1968-69, c. 116, s. 8 (1).

(3) No proceedings, other than in a court, under this Act shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Commission. 1968-69, c. 116, s. 8 (2).

1968-69

8. —(1) Subsection 2 of section 137 of *The Securities Act, 1966* is amended by inserting after "proceedings" in the first line "in a court", so that the subsection shall read as follows:

(2) No proceedings in a court under this Act shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

(2) The said section 137 is amended by adding thereto the following subsection:

(3) No proceedings, other than in a court, under this Act shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Commission.

1966

137.

(2) No proceedings under this Act shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission. R.S.O. 1960, c. 363, s. 65, *amended*.

1978

120. (1) Where a prospectus together with any amendment to the prospectus contains a misrepresentation, a purchaser who purchases a security offered thereby during the period of distribution or distribution to the public shall be deemed to have relied on such misrepresentation if it was a misrepresentation at the time of purchase and has a right of action for damages against,

- (a) the issuer or a selling security holder on whose behalf the distribution is made;
- (b) each underwriter of the securities who is required to sign the certificate required by section 58;
- (c) every director of the issuer at the time the prospectus or the amendment to the prospectus was filed;
- (d) every person or company whose consent has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by them; and
- (e) every person or company who signed the prospectus or the amendment to the prospectus other than the persons or companies included in clauses a to d.

or, where the purchaser purchased the security from a person or company referred to in clause a or b or from another underwriter of the securities, he may elect to exercise a right of rescission against such person, company or underwriter, in which case he shall have no right of action for damages against such person, company or underwriter.

(2) No person or company is liable under subsection 1 if he proves that the purchaser purchased the securities with knowledge of the misrepresentation.

PART XXII

CIVIL LIABILITY

126.(1) Liability for misrepresentation in prospectus.—Where a prospectus together with any amendment to the prospectus contains a misrepresentation, a purchaser who purchases a security offered thereby during the period of distribution or distribution to the public shall be deemed to have relied on such misrepresentation if it was a misrepresentation at the time of purchase and has a right of action for damages against,

- (a) the issuer or a selling security holder on whose behalf the distribution is made;
- (b) each underwriter of the securities who is required to sign the certificate required by section 58;
- (c) every director of the issuer at the time the prospectus or the amendment to the prospectus was filed;
- (d) every person or company whose consent has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by them; and
- (e) every person or company who signed the prospectus or the amendment to the prospectus other than the persons or companies included in clauses (a) to (d).

or, where the purchaser purchased the security from a person or company referred to in clause (a) or (b) or from another underwriter of the securities, he may elect to exercise a right of rescission against such person, company or underwriter, in which case he shall have no right of action for damages against such person, company or underwriter.

(2) Defence.—No person or company is liable under subsection (1) if he proves that the purchaser purchased the securities with knowledge of the misrepresentation.

(3) m.—No person or company, other than the issuer or selling security holder, is liable under subsection (1) if he proves,

- (a) that the prospectus or the amendment to the prospectus was filed without his knowledge or consent, and that, on becoming aware of its filing, he forthwith gave reasonable general notice that it was so filed;
- (b) that, after the issue of a receipt for the prospectus and before the purchase of the securities by the purchaser, on becoming aware of any misrepresentation in the prospectus or an amendment to the prospectus he withdrew his consent thereto and gave reasonable general notice of such withdrawal and the reason therefor;
- (c) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on the authority of an expert or purporting to be a copy of or an extract from a report, opinion or statement of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the prospectus or the amendment to the prospectus did not fairly represent the report, opinion or statement of the expert or was not a fair copy of or extract from the report, opinion or statement of the expert;
- (d) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert but that contains a misrepresentation attributable to failure to represent fairly his report, opinion or statement as an expert,
- (i) he had, after reasonable investigation, reasonable grounds to believe and did believe that such part of the prospectus or the amendment to the prospectus fairly represented his report, opinion or statement, or
- (ii) on becoming aware that such part of the prospectus or the amendment to the prospectus did not fairly represent his report, opinion or statement as an expert, he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the prospectus or the amendment to the prospectus; or
- (e) that, with respect to a false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document, and he had reasonable grounds to believe and did believe that the statement was true.

(b) No person or company, other than the issuer or selling security holder, is liable under subsection (1) if he proves,

- (a) that the prospectus or the amendment to the prospectus was filed without his knowledge or consent, and that, on becoming aware of its filing, he forthwith gave reasonable general notice that it was so filed;
- (b) that, after the issue of a receipt for the prospectus and before the purchase of the securities by the purchaser, on becoming aware of any misrepresentation in the prospectus or an amendment to the prospectus he withdrew his consent thereto and gave reasonable general notice of such withdrawal and the reason therefor;
- (c) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on the authority of an expert or purporting to be a copy of or an extract from a report, opinion or statement of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the prospectus or the amendment to the prospectus did not fairly represent the report, opinion or statement of the expert or was not a fair copy of or extract from the report, opinion or statement of the expert;
- (d) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert but that contains a misrepresentation attributable to failure to represent fairly his report, opinion or statement as an expert,
- (i) he had, after reasonable investigation, reasonable grounds to believe and did believe that such part of the prospectus or the amendment to the prospectus fairly represented his report, opinion or statement, or
- (ii) on becoming aware that such part of the prospectus or the amendment to the prospectus did not fairly represent his report, opinion or statement as an expert, he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the prospectus or the amendment to the prospectus; or

(4) *Idem.*—No person or company, other than the issuer or selling security holder, is liable under subsection (1) with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert unless he,

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

(5) *Idem.*—No person or company, other than the issuer or selling security holder, is liable under subsection (1) with respect to any part of the prospectus or the amendment to the prospectus not purporting to be made on the authority of an expert and not purporting to be a copy of or an extract from a report, opinion or statement of an expert unless he,

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

(6) *Limitation re underwriters.*—No underwriter is liable for more than the total public offering price represented by the portion of the distribution underwritten by him.

(7) *Limitation in action for damages.*—In an action for damages pursuant to subsection (1), the defendant is not liable for all or any portion of such damages that he proves do not represent the depreciation in value of the security as a result of the misrepresentation relied upon.

(8) *Joint and several liability.*—All or any one or more of the persons or companies specified in subsection (1) are jointly and severally liable, and every person or company who becomes liable to make any payment under this section may recover a contribution from any person or company who, if sued separately, would have been liable to make the same payment provided that the court may deny the right to recover such contribution where, in all the circumstances of the case, it is satisfied that to permit recovery of such contribution would not be just and equitable.

(9) *Limitation re amount recoverable.*—In no case shall the amount recoverable under this section exceed the price at which the securities were offered to the public.

(10) *No derogation of rights.*—The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the purchaser may have at law. 1978, c. 47, s. 126.

(c) that, with respect to a false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document, and he had reasonable grounds to believe and did believe that the statement was true.

(11) No person or company, other than the issuer or selling security holder, is liable under subsection (1) with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert unless he,

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation

(5) No person or company, other than the issuer or selling security holder, is liable under subsection (1) with respect to any part of the prospectus or the amendment to the prospectus not purporting to be made on the authority of an expert and not purporting to be a copy of or an extract from a report, opinion or statement of an expert unless he,

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation

(6) No underwriter is liable for more than the total public offering price represented by the portion of the distribution underwritten by him.

(7) In an action for damages pursuant to subsection (1), the defendant is not liable for all or any portion of such damages that he proves do not represent the depreciation in value of the security as a result of the misrepresentation relied upon.

(8) All or any one or more of the persons or companies specified in subsection (1) are jointly and severally liable, and every person or company who becomes liable to make any payment under this section may recover a contribution from

any person or company who, if sued separately, would have been liable to make the same payment provided that the court may deny the right to recover such contribution where, in all the circumstances of the case, it is satisfied that to permit recovery of such contribution would not be just and equitable.

(9) In no case shall the amount recoverable under this section exceed the price at which the securities were offered to the public.

(10) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the purchaser may have at law. R.S.O. 1970, c. 426, s. 142, *amended*.

1970

142. Where a receipt for a prospectus has been issued by the Director, notwithstanding that such receipt is thereafter revoked, every purchaser of the securities to which the prospectus relates shall be deemed to have relied upon the statements made in the prospectus whether the purchaser has received the prospectus or not, and, if a material false statement is contained in the prospectus, every person who, at the time of the issue of a receipt for the prospectus, is a director of a company issuing the securities or a person or company who signed the certificate required by section 52 is liable to pay compensation to all persons or companies who have purchased the securities for any loss or damage such persons or companies have sustained as a result of such purchase unless it is proved,

- (a) that the prospectus was filed with the Commission without his knowledge or consent, and that, on becoming aware of its filing with the Commission, he forthwith gave reasonable public notice that it was so filed;
- (b) that, after the issue of a receipt for the prospectus and before the purchase of the securities by such purchaser, he on becoming aware of any false statement therein, he

withdrew his consent thereto and gave reasonable public notice of such withdrawal and of the reason therefor;

(c) that, with respect to every false statement, he had reasonable grounds to believe and did believe that the statement was true;

(d) that he had no reasonable grounds to believe that an expert who made a statement in a prospectus or whose report or valuation was produced or fairly summarized therein was not competent to make such statement, valuation or report; or

(e) that, with respect to every false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document. 1966, c. 142, s. 141; 1968, c. 123, s. 39.

1968

39. Section 141 of *The Securities Act, 1966* is amended by striking out "Registrar" in the second line and inserting in lieu thereof "Director".

1966

141. Where a receipt for a prospectus has been issued by the Registrar, notwithstanding that such receipt is there- after revoked, every purchaser of the securities to which the prospectus relates shall be deemed to have relied upon the statements made in the prospectus whether the purchaser has received the prospectus or not, and, if a material false statement is contained in the prospectus, every person who, at the time of the issue of a receipt for the prospectus, is a director of a company issuing the securities or a person or company who signed the certificate required by section 52 is liable to pay compensation to all persons or companies who have purchased the securities for any loss or damage such persons or companies have sustained as a result of such purchase unless it is proved,

- (a) that the prospectus was filed with the Commission without his knowledge or consent, and that, on becoming aware of its filing with the Commission, he forthwith gave reasonable public notice that it was so filed;
- (b) that, after the issue of a receipt for the prospectus and before the purchase of the securities by such purchaser, on becoming aware of any false statement therein, he withdrew his consent thereto and gave reasonable public notice of such withdrawal and of the reason therefor;
- (c) that, with respect to every false statement, he had reasonable grounds to believe and did believe that the statement was true;
- (d) that he had no reasonable grounds to believe that an expert who made a statement in a prospectus or whose report or valuation was produced or fairly summarized therein was not competent to make such statement, valuation or report; or
- (e) that, with respect to every false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document. R.S.O. 1960, c. 363, s. 69 (1), *amended*.

1982

44. The said Act is further amended by adding thereto the following section:

126a.—(1) Where an offering memorandum sent or delivered to a purchaser as required by clause 71 (1) (d) or (y) or permitted by clause 71 (1) (c) or (p), together with any amendment to the offering memorandum, contains a misrepresentation, a purchaser who purchases a security referred to therein shall be deemed to have relied on such misrepresentation if it was a misrepresentation at the time of purchase and has a right of action for damages against the seller or he may elect to exercise a right of rescission against the seller, in which case he shall have no right of action for damages against the seller.

(2) No person or company is liable under subsection (1) if he proves that the purchaser purchased the securities with knowledge of the misrepresentation.

(3) In an action for damages under subsection (1), the defendant is not liable for all or any portion of such damages that he proves do not represent the depreciation in value of the security as a result of the misrepresentation relied upon.

(4) In no case shall the amount recoverable under this section exceed the price at which the securities were offered.

(5) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the purchaser may have at law.

1982

127.(1) Liability for misrepresentation in circular. — Where a take-over bid circular sent to the offerees of an offeree company as required by Part XIX contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and may elect to exercise a right of action for rescission or damages against the offeror or a right of action for damages against,

- (a) every person who at the time the circular was signed was a director of the offeror;
 - (b) every person or company whose consent has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by them; and
 - (c) each person who signed a certificate in the circular other than the persons included in clause (a).
- (2) Idem. — Where a directors' circular or a director's or officer's circular sent to the offerees of an offeree company as required by Part XIX contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and has a right of action for damages against every director or officer who signed the circular.
- (3) Idem. — The provisions of subsection (1) apply with necessary modifications where an issuer bid circular contains a misrepresentation.
- (4) Defence. — No person or company is liable under subsection (1), (2) or (3) if he proves that the offeree had knowledge of the misrepresentation.

(5) Idem. — No person or company, other than the offeror, is liable under subsection (1), (2) or (3) if he proves,

- (a) that the take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular, as the case may be, was sent without his knowledge or consent and that, on becoming aware of it, he forthwith gave reasonable general notice that it was so sent;
- (b) that, after the sending of the take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular, as the case may be, on becoming aware of any misrepresentation in the take-over bid circular, issuer bid circular, directors' circular or director's or officer's circular, he withdrew his consent thereto and gave reasonable general notice of the withdrawal and the reason therefor;
- (c) that, with respect to any part of the circular purporting to be made on the authority of an expert or purporting to be a copy of or an extract from a report or statement of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the circular did not fairly represent the report, opinion or statement of the expert or was not a fair copy of or extract from the report, opinion or statement of the expert;

45. Subsections 127 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

- (1) Where a take-over bid circular together with any notice of change or variation communicated to the offerees of an offeree company, as required by Part XIX, contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and may elect to exercise a right of action for rescission or damages against the offeror or a right of action for damages against,
 - (a) every person who at the time the circular or notice was signed was a director of the offeror;
 - (b) every person or company whose consent has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by them; and
 - (c) each person who signed a certificate in the circular or notice other than the persons included in clause (a).
- (2) Where a directors' circular, a director's or officer's circular, an amendment to a directors' circular or an amendment to a director's or officer's circular communicated to the offerees of an offeree company, as required by Part XIX, contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and, in respect of such misrepresentation in a directors' circular or amendment to a directors' circular, has a right of action for damages against every person who at the time the directors' circular or amendment was signed was a director of the offeree and, in respect of such misrepresentation in a director's or officer's circular or amendment to a director's or officer's circular, has a right of action for damages against every director or officer who signed the director's or officer's circular or amendment.
- (3) The provisions of subsection (1) apply with necessary modifications where an issuer bid circular or any notice of change or variation contains a misrepresentation.

(d) that, with respect to any part of the circular purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert, but that contains a misrepresentation attributable to failure to represent fairly his report, opinion or statement as an expert,

(i) he had, after reasonable investigation, reasonable grounds to believe and did believe that such part of the circular fairly represented his report, opinion or statement as an expert, or

(ii) on becoming aware that such part of the circular did not fairly represent his report, opinion or statement as an expert, he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the circular; or

(e) that, with respect to a false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document and he had reasonable grounds to believe and did believe that the statement was true.

(6) *Idem.* — No person or company, other than the offeror, is liable under subsection (1), (2) or (3) with respect to any part of the circular purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert unless he,

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

(7) *Idem.* — No person or company, other than the offeror, is liable under subsection (1), (2) or (3) with respect to any part of the circular not purporting to be made on the authority of an expert and not purporting to be a copy of or an extract from a report, opinion or statement of an expert unless he,

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

1978

127. — (1) Where a take-over bid circular sent to the officers of an offeree company as required by Part XIX contains a misrepresentation, every such officer shall be deemed to have relied on such misrepresentation and may elect to exercise a right of action for rescission or damages against the offeror or a right of action for damages against,

(a) every person who at the time the circular was signed was a director of the offeror;

(b) every person or company whose consent has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by them; and

(c) each person who signed a certificate in the circular other than the persons included in clause a.

(2) Where a directors' circular or a director's or officer's circular sent to the officers of an offeree company as required by Part XIX contains a misrepresentation, every such officer shall be deemed to have relied on such misrepresentation and has a right of action for damages against every director or officer who signed the circular

(3) The provisions of subsection 1 apply *mutatis mutandis* where an issuer bid circular contains a misrepresentation.

(4) No person or company is liable under subsection 1, 2 or 3 if he proves that the officer had knowledge of the misrepresentation.

(5) No person or company, other than the offeror, is liable under subsection 1, 2 or 3 if he proves,

(8) Joint and several liability.—All or any one or more of the persons or companies specified in subsection (1), (2) or (3) are jointly and severally liable, and every person or company who becomes liable to make any payment under this section may recover a contribution from any person or company who, if sued separately, would have been liable to make the same payment provided that the court may deny the right to recover such contribution where, in all the circumstances of the case, it is satisfied that to permit recovery of such contribution would not be just and equitable.

(9) Limitation of damages.—In an action for damages pursuant to subsection (1), (2) or (3) based on a misrepresentation affecting a security offered by the offeror company in exchange for securities of the offeree company, the defendant is not liable for all or any portion of such damages that he proves do not represent the depreciation in value of the security as a result of the misrepresentation.

(10) Deemed take-over bid circular or issuer bid circular.—Where the offeror,

- (a) in a take-over bid exempted from the provisions of Part XIX by clause 88(2)(a); or
- (b) in an issuer bid exempted from the provisions of Part XIX by clause 88(3)(c),

is required by the by-laws, regulations or policies of the stock exchange through the facilities of which the take-over bid or issuer bid is made to file with it or to deliver to offerees a disclosure document, the disclosure document shall be deemed, for the purposes of this section, to be a take-over bid circular or issuer bid circular, as the case may be, sent to the offerees as required by Part XIX.

(11) No derogation of rights.—The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the offeree may have at law. 1978, c. 47, s. 127.

(a) that the take-over bid circular, issuer bid circular, directors' circular or directors' circular or offeree's circular, as the case may be, was sent without his knowledge or consent and that, on becoming aware of it, he forthwith gave reasonable general notice that it was so sent;

(b) that, after the sending of the take-over bid circular, issuer bid circular, directors' circular or offeree's circular, as the case may be, on becoming aware of any misrepresentation in the take-over bid circular, issuer bid circular, directors' circular or directors' circular or offeree's circular, he withdrew his consent thereto and gave reasonable general notice of the withdrawal and the reason therefor;

(c) that, with respect to any part of the circular purporting to be made on the authority of an expert or purporting to be a copy of or an extract from a report, opinion or statement of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the circular did not fairly represent the report, opinion or statement of the expert or was not a fair copy of or extract from the report, opinion or statement of the expert;

(d) that, with respect to any part of the circular purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert, but that contains a misrepresentation attributable to failure to represent fairly his report, opinion or statement as an expert,

(i) he had, after reasonable investigation, reasonable grounds to believe and did believe that such part of the circular fairly represented his report, opinion or statement as an expert, or

(ii) on becoming aware that such part of the circular did not fairly represent his report, opinion or statement as an expert, he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the circular; or

(e) that, with respect to a false statement purporting to be a statement made by an official person or

contained in what purports to be a copy of an extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document and he had reasonable grounds to believe and did believe that the statement was true.

(6) No person or company, other than the offeror, is liable under subsection 1, 2 or 3 with respect to any part of the circular purporting to be made on his own authority as an expert or purporting to be a copy of or an extract from his own report, opinion or statement as an expert unless he:

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

(7) No person or company, other than the offeror, is liable under subsection 1, 2 or 3 with respect to any part of the circular not purporting to be made on the authority of an expert and not purporting to be a copy of or an extract from a report, opinion or statement of an expert unless he:

(a) failed to conduct such reasonable investigation as to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

(8) All or any one or more of the persons or companies specified in subsection 1, 2 or 3 are jointly and severally liable, and every person or company who becomes liable to make any payment under this section may recover a contribution from any person or company who, if sued separately, would have been liable to make the same payment provided that the court may deny the right to recover such contribution where, in all the circumstances of the case, it is satisfied that to permit recovery of such contribution would not be just and equitable.

(9) In an action for damages pursuant to subsection 1, 2 or 3 based on a misrepresentation affecting a security offered by the offeror company in exchange for securities of the offeree company, the defendant is not liable for all or any portion of such damages that he proves do not represent the depreciation in value of the security as a result of the misrepresentation.

(10) Where the offeror,

(a) in a take-over bid exempted from the provisions of Part XIX by clause a of subsection 2 of section 88; or

(b) in an issuer bid exempted from the provisions of Part XIX by clause c of subsection 3 of section 88,

is required by the by-laws, regulations or policies of the stock exchange through the facilities of which the take-over bid or issuer bid is made to file with it or to deliver to offerees a disclosure document, the disclosure document shall be deemed, for the purposes of this section, to be a take-over bid circular or issuer bid circular, as the case may be, sent to the offerees as required by Part XIX

(11) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the offeree may have at law. [1971, c. 31, ss. 29, 45, *amended*.]

1971

29. *The Securities Act, 1966* is amended by adding thereto the following section:

RIGHT OF RESCISSION

100a.—(1) An offeree who is a party to a contract resulting from a take-over bid has a right to rescind the contract if the take-over bid circular forwarded in compliance with this Part received by the offeree, as of the date of receipt, contains an untrue statement of a material fact or omits to state a material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made.

(2) No action shall be commenced to enforce the right of rescission conferred by this section after the expiration of ninety days from the receipt of the take-over bid circular or amended circular or from the date of the contract referred to in subsection 1, whichever is later.

(3) Subsection 1 does not apply to untrue statements of a material fact or an omission to state a material fact,

(a) if the untruth of such statements or the fact of such omission was unknown to the offeror and, in the exercise of reasonable diligence, could not have been known to the offeror; or

(b) if the offeree knew of the untruth of the statement or knew of the omission at the time he tendered his securities to the offeror.

(4) For the purpose of this section, where a take-over bid circular or amended circular is sent by prepaid mail it shall be deemed to be received in the ordinary course of mail by the person or company to whom it was addressed.

(5) The right of rescission conferred by this section is in addition to and without derogation from any other right the offeree may have at law.

(6) Every take-over bid circular shall contain a statement of the right of rescission provided by this section.

45. *The Securities Act, 1966* is amended by adding thereto the following section:

141c. Where a circular has been sent to the offerees or the shareholders of an offeree company as required by Part IX, every person or company to whom such circular was sent shall be deemed to have relied upon the statements made in the circular and, if a material false statement is contained in a circular, each person who at the time the circular was signed was a director of the company on whose behalf the circular was signed and each person who was required to sign a certificate under section 88a or section 98 is liable to pay compensation to all shareholders of the company whose shares are the subject of the take-over bid for any loss or damage such shareholders have sustained as a result of such material false statement unless it is proved,

(a) that the circular was prepared and sent without his knowledge or consent, and that, on

becoming aware of its being sent, he forthwith gave reasonable public notice that it was so sent without his knowledge or consent;

- (b) that, before the statement was relied or acted upon, on becoming aware of any false statement therein, he withdrew his consent thereto and gave reasonable public notice of such withdrawal and of the reasons therefor;
- (c) that, with respect to every false statement, he had reasonable grounds to believe and did believe that the statement was true;
- (d) that he had no reasonable grounds to believe that an expert who made a statement in a circular or whose report or valuation was produced or fairly summarized therein was not competent to make such statement, valuation or report; or
- (e) that, with respect to every false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement a copy or extract from the document.

128. Standard of reasonableness.—In determining what constitutes reasonable investigation or reasonable grounds for belief for the purposes of sections 126 and 127, the standard of reasonableness shall be that required of a prudent man in the circumstances of the particular case, 1978, c. 47, s. 128.

129. Liability for failure to make follow-up offer or to take up securities.—An offeror who,

- (a) does not make the offer to purchase required to be made by subsection 91(1) at a consideration having a value at least equal to that required thereby; or
- (b) does not take up securities duly deposited under the offer referred to in clause (a),

is liable to pay to the security holders entitled to receive the offer to purchase, or whose duly deposited securities were not taken up, a consideration per security equal in value to the minimum consideration at which the offer is required by that subsection to be made, or to the excess thereof over the value of the consideration actually offered, together with damages, if any, 1978, c. 47, s. 129.

130. Liability of dealer or offeror.—A purchaser of a security to whom a prospectus was required to be sent or delivered but was not sent or delivered in compliance with subsection 70(1) or an offeree to whom a take-over circular or issuer bid circular was required to be communicated but was not communicated in compliance with section 92 has a right of action for rescission or damages against the dealer or offeror who failed to comply with the applicable requirement, 1978, c. 47, s. 130.

1978

128. In determining what constitutes reasonable investigation or reasonable grounds for belief for the purposes of sections 126 and 127, the standard of reasonableness shall be that required of a prudent man in the circumstances of the particular case. *New.*

129. An offeror who,

- (a) does not make the offer to purchase required to be made by subsection 1 of section 91 at a consideration having a value at least equal to that required thereby; or
- (b) does not take up securities duly deposited under the offer referred to in clause a,

is liable to pay to the security holders entitled to receive the offer to purchase, or whose duly deposited securities were not taken up, a consideration per security equal in value to the minimum consideration at which the offer is required by that subsection to be made, or to the excess thereof over the value of the consideration actually offered, together with damages, if any. *New.*

1978

130. A purchaser of a security to whom a prospectus was required to be sent or delivered but was not sent or delivered in compliance with subsection 1 of section 70 or an offeree to whom a take-over bid circular or issuer bid

circular was required to be communicated but was not communicated in compliance with section 92 has a right of action for rescission or damages against the dealer or offeror who failed to comply with the applicable requirement. R.S.O. 1970, c. 426, s. 65; 1971, c. 31, s. 20, *amended*

1971

20.—(1) Subsection 1 of section 65 of *The Securities Act* is amended by striking out "primary" in the third line.

(2) Subsection 2 of the said section 65 is repealed and the following substituted therefor:

(2) No action shall be commenced to enforce the right of rescission conferred by this section after the expiration of ninety days from the receipt of the prospectus or amended prospectus by the purchaser or from the date of the contract referred to in subsection 1, whichever is later.

(3) Subsection 7 of the said section 65 is amended by striking out "cause of action" in the first line and inserting in lieu thereof "right of rescission", so that the subsection shall read as follows:

(7) The right of rescission conferred by this section is in addition to and without derogation from any other right the purchaser may have at law.

1966

64.—(1) A person or company that is a party to a contract as purchaser resulting from the offer of a security in the course of primary distribution to the public to which section 35 or 56 is applicable has a right to rescind the contract while still the owner of the security if the prospectus and any amended prospectus then filed with the Commission in compliance with section 55 received by the purchaser, as of the date of receipt, contains an untrue statement of a material fact or omits to state a material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made.

(2) No action shall be commenced under this section after the expiration of ninety days from the last to occur of the receipt of the prospectus or amended prospectus by the purchaser or the date of the contract referred to in subsection 1.

(3) Subsection 1 does not apply to an untrue statement of a material fact or an omission to state a material fact,

(a) if the untruth of such statement or the fact of such omission was unknown both to the person or company whose securities are being offered by the prospectus and to the underwriter referred to in subsection 1 of section 53 and, in the exercise of reasonable diligence, could not have been known to such person or company or to such underwriter;

(b) if such statement or omission is disclosed in an amended prospectus filed in compliance with section 55 and such amended prospectus was received by the purchaser; or

(c) if the purchaser knew of the untruth of the statement or knew of the omission at the time he purchased the security.

(4) For the purpose of this section, where a prospectus or amended prospectus is sent by prepaid mail, it shall be deemed to be received in the ordinary course of mail by the person or company to whom it was addressed.

(5) The receipt of a prospectus or amended prospectus by a person or company who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a security referred to in subsection 1 shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such prospectus or amended prospectus.

(6) For the purpose of this section, a person or company shall not be considered to be acting as agent of the purchaser unless the person or company is acting solely as the agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale.

(7) The cause of action conferred by this section is in addition to and without derogation from any other right the purchaser may have at law.

(8) Every prospectus shall contain a statement of the right of rescission provided by this section. *New.*

131.(1) Liability of person or company in special relationship with a reporting issuer where material fact or change undisclosed.—Every person or company in a special relationship with a reporting issuer who sells the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed and every person or company in a special relationship with a reporting issuer who, directly or indirectly, other than in the necessary course of business, communicates knowledge of the material fact or material change to another person or company who thereafter sells securities of the reporting issuer is liable to compensate the purchaser of the securities for damages as a result of the trade unless:

- (a) the person or company in the special relationship with the reporting issuer had reasonable grounds to believe that the material fact or material change had been generally disclosed;
- (b) the material fact or material change was known or ought reasonably to have been known to the purchaser; or
- (c) the person or company in the special relationship with the reporting issuer proves that he or it did not make use of knowledge of the material fact or material change in selling the securities or in communicating knowledge of the material fact or material change, as the case may be.

(2) *Idem.*—Every person or company in a special relationship with a reporting issuer who purchases the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed and every person or company in a special relationship with the reporting issuer who, directly or indirectly, and, other than in the necessary course of business, communicates knowledge of the material fact or material change to another person or company who thereafter purchases securities of the reporting issuer is liable to compensate the vendor of the securities for damages as a result of the trade unless:

- (a) the person or company in the special relationship with the reporting issuer had reasonable grounds to believe that the material fact or material change had been generally disclosed;
- (b) the material fact or material change was known or ought reasonably to have been known to the vendor; or
- (c) the person or company in the special relationship with the reporting issuer proves that he or it did not make use of knowledge of the material fact or material change in purchasing the securities or in communicating knowledge of the material fact or material change, as the case may be, 1979, c. 86, s. 16(1).

(3) *Idem.*—Any person or company who has access to information concerning the investment program of a mutual fund in Ontario or the investment portfolio managed for a client by a portfolio manager or by a registered dealer acting as a portfolio manager and uses that information for his or its direct benefit or advantage to purchase or sell securities of an issuer for his or its account where the portfolio securities of the mutual fund or the investment portfolio managed for the client by the portfolio manager or registered dealer include securities of that issuer is accountable to the mutual fund or the client of the portfolio manager or registered dealer, as the case may be, for any benefit or advantage received or receivable as a result of such purchase or sale, 1978, c. 47, s. 131(3).

46. Subsection 131 (7) of the said Act is amended by striking out "or" at the end of clause (c), by inserting "or" at the end of clause (d) and by adding thereto the following clause:

- (e) the person or company has acquired knowledge of the material fact or material change from a person or company referred to in clause (a), (b), (c) or (d) and knew or ought reasonably to have known that the person or company communicating the knowledge is a person or company referred to in clause (a), (b), (c) or (d).

1979

16.—(1) Subsections 1 and 2 of section 131 of the said Act are repealed and the following substituted therefor:

(1) Every person or company in a special relationship with a reporting issuer who sells the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed and every person or company in a special relationship with a reporting issuer who, directly or indirectly, other than in the necessary course of business, communicates knowledge of the material fact or material change to another person or company who thereafter sells securities of the reporting issuer is liable to compensate the purchaser of the securities for damages as a result of the trade unless:

- (a) the person or company in the special relationship with the reporting issuer had reasonable grounds to believe that the material fact or material change had been generally disclosed;

(b) the material fact or material change was known or ought reasonably to have been known to the purchaser; or

(c) the person or company in the special relationship with the reporting issuer proves that he or it did not make use of knowledge of the material fact or material change in selling the securities or in communicating knowledge of the material fact or material change, as the case may be.

(1979 continued next page)

(4) **Accountability for gain.**— Every person or company in a special relationship with a reporting issuer who is an insider or an associate or affiliate of the reporting issuer and who,

- (a) sells or purchases the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed; or
- (b) directly or indirectly communicates, other than in the necessary course of business, knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed to another person or company who thereafter sells or purchases securities of the reporting issuer,

is accountable to the reporting issuer for any benefit or advantage received or receivable by him or it as a result of the purchase, sale or communication, as the case may be, unless,

- (c) the person or company in the special relationship with the reporting issuer had reasonable grounds to believe that the material fact or material change had been generally disclosed;
- (d) the material fact or material change was known or ought reasonably to have been known to the purchaser or vendor of the securities, as the case may be;
- (e) the person or company in the special relationship with the reporting issuer proves that he or it did not make use of knowledge of the material fact or material change in selling or purchasing the securities or in communicating knowledge of the material fact or material change, as the case may be.
- (5) Liability, joint and several.—Where more than one person or company in a special relationship with a reporting issuer is liable under subsection (1) or (2) as to the same transaction or series of transactions, their liability is joint and several. 1979, c. 86, s. 16(2).
- (6) Measure of damages.—In assessing damages under subsection (1) or (2), the court shall consider,
 - (a) if the plaintiff is a purchaser, the price that he paid for the security less the average market price of the security in the twenty trading days following general disclosure of the material fact or material change; or
 - (b) if the plaintiff is a vendor, the average market price of the security in the twenty trading days following general disclosure of the material fact or material change less the price that he received for the security,

but the court may instead consider such other measures of damages as may be relevant in the circumstances.

- (7) Interpretation.—For the purposes of this section, a person or company is in a special relationship with a reporting issuer where,
 - (a) the person or company is an insider or an affiliate of the reporting issuer;
 - (b) the person is a director, officer or employee of the reporting issuer or of a company that is an insider or an affiliate of the reporting issuer;
 - (c) the person or company has engaged, is engaging in or proposes to engage in any business or professional activities with or on behalf of the reporting issuer and thereby has acquired knowledge of the material fact or material change; or
 - (d) the person or company is an associate of the reporting issuer or of any person or company referred to in clause (a), (b) or (c). 1978, c. 47, s. 131(6, 7).

(2) Every person or company in a special relationship with a reporting issuer who purchases the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed and every person or company in a special relationship with the reporting issuer who, directly or indirectly, and, other than in the necessary course of business, communicates knowledge of the material fact or material change to another person or company who thereafter purchases securities of the reporting issuer is liable to compensate the vendor of the securities for damages as a result of the trade unless,

- (a) the person or company in the special relationship with the reporting issuer had reasonable grounds to believe that the material fact or material change had been generally disclosed;
 - (b) the material fact or material change was known or ought reasonably to have been known to the vendor; or
 - (c) the person or company in the special relationship with the reporting issuer proves that he or it did not make use of knowledge of the material fact or material change in purchasing the securities or in communicating knowledge of the material fact or material change, as the case may be.
- (2) Subsections 4 and 5 of the said section 131 are repealed and the following substituted therefor.

- (4) Every person or company in a special relationship with a reporting issuer who is an insider or an associate or affiliate of the reporting issuer and who,
 - (a) sells or purchases the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed; or
 - (b) directly or indirectly communicates, other than in the necessary course of business, knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed to another person or company who thereafter sells or purchases securities of the reporting issuer,

is accountable to the reporting issuer for any benefit or advantage received or receivable by him or it as a result of the purchase, sale or communication, as the case may be, unless,

- (c) the person or company in the special relationship with the reporting issuer had reasonable grounds to believe that the material fact or material change had been generally disclosed;
- (d) the material fact or material change was known or ought reasonably to have been known to the purchaser or vendor of the securities, as the case may be;
- (e) the person or company in the special relationship with the reporting issuer proves that he or it did not make use of knowledge of the material fact or material change in selling or purchasing the securities or in communicating knowledge of the material fact or material change, as the case may be;
- (5) Where more than one person or company in a special relationship with a reporting issuer is liable under subsection 1 or 2 as to the same transaction or series of transactions, their liability is joint and several.

1978

131. (1) Every person or company in a special relationship with a reporting issuer who sells the securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed and every person in a special relationship with the reporting issuer who, directly or indirectly, informs the vendor of the material fact or material change other than in the necessary course of business is liable to compensate the purchaser of the securities for damages as a result of the trade unless,

- (a) the vendor or informer, as the case may be, had reasonable grounds to believe that the material fact or material change had been generally disclosed;
- (b) the material fact or material change was known or ought reasonably to have been known to the purchaser; or
- (c) the vendor or informer, as the case may be, proves that the vendor did not make use of knowledge of the material fact or material change in selling the securities.

(2) Every person or company in a special relationship with a reporting issuer who purchases the securities of a reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed and every person in a special relationship with the reporting issuer who, directly or indirectly, informs the purchaser of the material fact or material change other than in the normal course of business is liable to compensate the vendor of the securities for damages as a result of the trade-unless,

- (a) the purchaser or informer, as the case may be, had reasonable grounds to believe that the material fact or material change had been generally disclosed;
- (b) the material fact or material change was known or ought reasonably to have been known to the vendor; or
- (c) the purchaser or informer, as the case may be, proves that the purchaser did not make use of knowledge of the material fact or material change in purchasing the securities.

(3) Any person or company who has access to information concerning the investment program of a mutual fund in Ontario or the investment portfolio managed for a client by a portfolio manager or by a registered dealer acting as a portfolio manager and uses that information for his or its direct benefit or advantage to purchase or sell securities of an issuer for his or its account where the portfolio securities of the mutual fund or the investment portfolio managed for the client by the portfolio manager or registered dealer include securities of that issuer is accountable to the mutual fund or the client of the portfolio manager or registered dealer, as the case may be, for any benefit or advantage received or receivable as a result of such purchase or sale.

(4) Every,

- (a) vendor or informer referred to in subsection 1; and
- (b) purchaser or informer referred to in subsection 2.

who is also an insider of the reporting issuer, or who is an associate or affiliate of such insider, is, in addition to the liability imposed by subsection 1 or 2, accountable to the reporting issuer for any benefit or advantage received or receivable by the insider or associate or affiliate, as the case may be. R.S.O. 1970, c. 426, s. 65; 1971, c. 41, s. 20, amended.

(5) The liability of,

- (a) the vendor and any informer under subsection 1, and
- (b) the purchaser and any informer under subsection 2,

is joint and several.

(6) In assessing damages under subsection 1 or 2, the court shall consider,

- (a) if the plaintiff is a purchaser, the price that he paid for the security less the average market price of the security in the twenty trading days following general disclosure of the material fact or material change; or
- (b) if the plaintiff is a vendor, the average market price of the security in the twenty trading days following general disclosure of the material fact or material change less the price that he received for the security,

but the court may instead consider such other measures of damages as may be relevant in the circumstances.

(7) For the purposes of this section, a person or company is in a special relationship with a reporting issuer where,

- (a) the person or company is an insider or an affiliate of the reporting issuer;
- (b) the person is a director, officer or employee of the reporting issuer or of a company that is an insider or an affiliate of the reporting issuer;
- (c) the person or company has engaged, is engaging in or proposes to engage in any business or professional activities with or on behalf of the reporting issuer and thereby has acquired knowledge of the material fact or material change; or
- (d) the person or company is an associate of the reporting issuer or of any person or company referred to in clause a, b or c. *New.*

1982

47. The said Act is further amended by adding thereto the following section:

131a. —(1) Every person or company who, before the intention has been generally disclosed and other than in the necessary course of business, communicates his or its intention to make a take-over bid or issuer bid, other than a take-over bid effected in reliance on the exemption in clause 88 (2) (b), (d) or (e) or an issuer bid effected in reliance on the exemption in clause 88 (3) (d) or (e), to another person or company who thereafter purchases securities of the offeree company is liable to compensate the vendor of the securities for damages as a result of the trade unless,

(a) the person or company who communicates his or its intention had reasonable grounds to believe the intention had been generally disclosed;

(b) the intention was known or ought reasonably to have been known to the vendor; or

(c) the person or company who communicates his or its intention proves that he or it did not make use of the knowledge of the intention in communicating the intention.

(2) Every person or company in a special relationship with a person or company who has the intention of making a take-over bid or issuer bid who, before the intention has been generally disclosed and other than in the necessary course of business, communicates such intention to make a take-over bid or issuer bid, other than a take-over bid effected in reliance on the exemption in clause 88 (2) (b), (d) or (e) or an issuer bid effected in reliance on the exemption in clause 88 (3) (d) or (e), to another person or company who thereafter purchases securities of the offeree company is liable to compensate the vendor of the securities for damages as a result of the trade unless,

(a) the person or company who communicated the intention has reasonable grounds to believe that the intention had been generally disclosed;

(b) the intention was known or ought reasonably to have been known to the vendor; or

(c) the person or company who communicated the intention proves that he or it did not make use of the knowledge of intention in communicating the intention.

(3) Where more than one person or company in a special relationship with a person or company is liable under subsection (2) as to the same transaction or series of transactions, their liability is joint and several.

(4) In assessing damages under subsection (1) or (2), the court shall consider the average market price of the security in the twenty trading days following general disclosure of the intention less the price that the vendor received for the security, but the court may instead consider such other measures of damages as may be relevant in the circumstances.

(5) For the purpose of this section, a person or company is in a special relationship with another person or company where the first mentioned person or company is,

(a) a person or company that is an insider or an affiliate of the second mentioned person or company;

(b) a director, officer or employee of that person or company or of a person or company is an insider or an affiliate of the second mentioned person or company;

(c) a person or company that has engaged, is engaging in or proposes to engage in any business or professional activities with, or on behalf of, the second mentioned person or company and thereby has acquired knowledge of the intention to make a take-over bid or issuer bid;

(d) a person or company that is an associate of the second mentioned person or company or of any person or company referred to in clause (a), (b) or (c); or

(e) a person or company that has acquired knowledge of the intention to make a take-over bid or issuer bid from a person or company referred to in clause (a), (b), (c) or (d) and knew or ought reasonably to have known that the person or company communicating the knowledge is a person or company referred to in clause (a), (b), (c) or (d).

132.(1) Action by Commission on behalf of issuer.—Upon application by the Commission or by any person or company who was at the time of a transaction referred to in subsection 131(1) or (2) or is at the time of the application a security holder of the reporting issuer, a judge of the High Court may, if satisfied that,

- (a) the Commission or the person or company has reasonable grounds for believing that the reporting issuer has a cause of action under subsection 131(4); and

(b) either,

- (i) the reporting issuer has refused or failed to commence an action under section 131 within sixty days after receipt of a written request from the Commission or such person or company so to do, or
- (ii) the reporting issuer has failed to prosecute diligently an action commenced by it under section 131,

make an order, upon such terms as to security for costs and otherwise as to the judge seems fit, requiring the Commission or authorizing such person or company or the Commission to commence or continue an action in the name of and on behalf of the reporting issuer to enforce the liability created by subsection 131(4).

(2) Action by Commission on behalf of mutual fund.—Upon the application by the Commission or any person or company who was at the time of a transaction referred to in subsection 131(3) or is at the time of the application a security holder of the mutual fund, a judge of the High Court may, if satisfied that,

- (a) the Commission or the person or company has reasonable grounds for believing that the mutual fund has a cause of action under subsection 131(3); and

(b) the mutual fund has either,

- (i) refused or failed to commence an action under subsection 131(3) within sixty days after receipt of a written request from the Commission or the person or company so to do, or
- (ii) failed to prosecute diligently an action commenced by it under subsection 131(3),

make an order, upon terms as to security for costs or otherwise as to the judge seems proper, requiring the Commission or authorizing the person or company or the Commission to commence and prosecute or to continue an action in the name of and on behalf of the mutual fund to enforce the liability created by subsection 131(3).

(3) Costs.—Where an action under subsection 131(3) or (4) is,

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by a board of directors of a reporting issuer, the trial judge or a judge of the High Court may order that the costs properly incurred by the board of directors in commencing, commencing and prosecuting or con-

132.—(1) Upon application by the Commission or by any person or company who was at the time of a transaction referred to in subsection 1 or 2 of section 131 or is at the time of the application a security holder of the reporting issuer, a judge of the High Court may, if satisfied that,

- (a) the Commission or the person or company has reasonable grounds for believing that the reporting issuer has a cause of action under subsection 4 of section 131; and

(b) either,

- (i) the reporting issuer has refused or failed to commence an action under section 131 within sixty days after receipt of a written request from the Commission or such person or company so to do, or
- (ii) the reporting issuer has failed to prosecute diligently an action commenced by it under section 131.

(2) Upon the application by the Commission or any person or company who was at the time of a transaction referred to in subsection 3 of section 131 or is at the time of the application a security holder of the mutual fund, a judge of the High Court may, if satisfied that,

- (a) the Commission or the person or company has reasonable grounds for believing that the mutual fund has a cause of action under subsection 3 of section 131; and
- (b) the mutual fund has either,

- (i) refused or failed to commence an action under subsection 3 of section 131 within sixty days after receipt of a written request from the Commission or the person or company so to do, or
- (ii) failed to prosecute diligently an action commenced by it under subsection 3 of section 131,

make an order, upon terms as to security for costs or other wise as to the judge seems proper, requiring the Commission or authorizing the person or company or the Commission to commence and prosecute or to continue an action in the name of and on behalf of the mutual fund to enforce the liability created by subsection 3 of section 131.

(3) Where an action under subsection 3 or 4 of section 131 is,

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by a board of directors of a reporting issuer, the trial judge or a judge of the High Court may order that the costs properly incurred by the board of directors in commencing, commencing and prosecuting or continuing the action, as

inuing the action, as the case may be, shall be paid by the reporting issuer, if he is satisfied that the action was *prima facie* in the best interests of the reporting issuer and the security holders thereof.

(4) Action by Commission on behalf of security holder of the reporting issuer.—Where an action under subsection 131(3) or (4) is,

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by a person or company who is a security holder of the reporting issuer, the trial judge or a judge of the High Court may order that the costs properly incurred by such person or company in commencing and prosecuting or continuing the action, as the case may be, shall be paid by the reporting issuer, if he is satisfied that,

- (d) the reporting issuer failed to commence the action or had commenced it but had failed to prosecute it diligently; and
- (e) the continuance of the action is *prima facie* in the best interests of the reporting issuer and the security holders thereof.

(5) Idem.—Where an action under subsection 131(3) or (4) is,

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by the Commission, the trial judge or a judge of the High Court shall order the reporting issuer to pay all costs properly incurred by the Commission in commencing, commencing and prosecuting or continuing the action, as the case may be.

(6) Idem.—In determining whether an action or its continuance is *prima facie* in the best interests of a reporting issuer and the security holders thereof, the judge shall consider the relationship between the potential benefit to be derived from the action by the reporting issuer and the security holders thereof and the cost involved in the prosecution of the action.

(7) Notice of application.—Notice of every application under subsection (1) or (2) shall be given to the Commission, the reporting issuer, or the mutual fund, as the case may be, and each of them may appear and be heard thereon.

(8) Order to co-operate.—Every order made under subsection (1) or (2) requiring or authorizing the Commission to commence and prosecute or continue an action shall provide that the reporting issuer or mutual fund, as the case may be, shall co-operate fully with the Commission in the commencement and prosecution or continuation of the action, and shall make available to the Commission all books, records, documents and other material or information known to the reporting issuer or mutual fund or reasonably ascertainable by the reporting issuer or mutual fund relevant to such action.

the case may be, shall be paid by the reporting issuer, if he is satisfied that the action was *prima facie* in the best interests of the reporting issuer and the security holders thereof.

(4) Where an action under subsection 3 or 4 of section 131 is,

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by a person or company who is a security holder of the reporting issuer, the trial judge or a judge of the High Court may order that the costs properly incurred by such person or company in commencing, commencing and prosecuting or continuing the action, as the case may be, shall be paid by the reporting issuer, if he is satisfied that,

- (d) the reporting issuer failed to commence the action or had commenced it but had failed to prosecute it diligently; and
- (e) the continuance of the action is *prima facie* in the best interests of the reporting issuer and the security holders thereof.

(5) Where an action under subsection 3 or 4 of section 131 is,

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by the Commission, the trial judge or a judge of the High Court shall order the reporting issuer to pay all costs properly incurred by the Commission in commencing, commencing and prosecuting or continuing the action, as the case may be.

(6) In determining whether an action or its continuance is *prima facie* in the best interests of a reporting issuer and the security holders thereof, the judge shall consider the relationship between the potential benefit to be derived from the action by the reporting issuer and the security holders thereof and the cost involved in the prosecution of the action.

(9) Appeal.—An appeal lies to the Supreme Court from any order made under this section. 1978, c. 47, s. 132.

(7) Notice of every application under subsection 1 or 2 shall be given to the Commission, the reporting issuer, or the mutual fund, as the case may be, and each of them may appear and be heard thereon.

(8) Every order made under subsection 1 or 2 requiring or authorizing the Commission to commence and prosecute or continue an action shall provide that the reporting issuer or mutual fund, as the case may be, shall co-operate fully with the Commission in the commencement and prosecution or continuation of the action, and shall make available to the Commission all books, records, documents and other material or information known to the reporting issuer or mutual fund or reasonably ascertainable by the reporting issuer or mutual fund relevant to such action.

(9) An appeal lies to the Supreme Court from any order made under this section. *Var.*

1978

133. (1) If subsection 1 of section 38 applies to a contract and such subsection is not complied with, a person or company who has entered into the contract is entitled to rescission thereof by mailing or delivering written notice of rescission to the registered dealer within sixty days of the date of the delivery of the security to or by the person or company, as the case may be, but, in the case of a purchase by the person or company, only if he is still the owner of the security purchased.

(2) If clause c of subsection 1 of section 35 applies to a contract and a registered dealer has failed to comply with such subsection by not disclosing that he acted as principal, a person or company who has entered into the contract is entitled to rescission thereof by mailing or delivering written notice of rescission to the registered dealer within seventy days of the date of the delivery of the written confirmation of the contract. R.S.C. 1970, c. 42a, s. 71 (1, 2), *amended*

(3) For the purpose of subsection 2, a confirmation sent by prepaid mail shall be deemed conclusively to have been delivered to the person or company to whom it was addressed in the ordinary course of mail. *New.*

(4) In an action respecting a rescission to which this section applies, the onus of proving compliance with section 35 or 48, as upon the registered dealer.

133.(1) Rescission of contract.—If subsection 38(1) applies to a contract and such subsection is not complied with, a person or company who has entered into the contract is entitled to rescission thereof by mailing or delivering written notice of rescission to the registered dealer within sixty days of the date of the delivery of the security to or by the person or company, as the case may be, but, in the case of a purchase by the person or company, only if he is still the owner of the security purchased.

(2) Idem.—If clause 35(1)(c) applies to a contract and a registered dealer has failed to comply with such subsection by not disclosing that he acted as principal, a person or company who has entered into the contract is entitled to rescission thereof by mailing or delivering written notice of rescission to the registered dealer within seventy days of the date of the delivery of the written confirmation of the contract.

(3) Service.—For the purpose of subsection (2), a confirmation sent by prepaid mail shall be deemed conclusively to have been delivered to the person or company to whom it was addressed in the ordinary course of mail.

(4) Onus.—In an action respecting a rescission to which this section applies, the onus of proving compliance with section 35 or 38 is upon the registered dealer.

(5) Limitation period.—No action respecting a rescission shall be commenced under this section after the expiration of a period of ninety days from the date of the mailing or delivering the notice under subsection (1) or (2). 1978, c. 47, s. 133.

(5) No action respecting a rescission shall be commenced under this section after the expiration of a period of ninety days from the date of the making or delivering the notice under subsection 1 or 2. R.S.O. 1970, c. 426, s. 71 (3, 4), *amended*

1966

70. - (1) If subsection 1 of section 69 applies to a contract and such subsection is not complied with, a person or company that has entered into such contract is entitled to rescission thereof by serving written notice of rescission on the person or company registered for trading in securities within sixty days of the date of the delivery of the securities to or by such person or company, as the case may be, but, in the case of a purchase by such person or company, only if he is still the owner of the security purchased.

(2) If subsection 2 of section 69 applies to a contract and such subsection is not complied with, a person or company that has entered into such contract is entitled to rescission thereof by serving written notice of rescission on the person or company registered for trading in securities within seven days of the date of the delivery of the written confirmation of the contract but, in the case of a purchase by such person or company, only if he is still the owner of the security purchased.

(3) In an action for rescission to which this section applies, the onus of proving compliance with section 69 is upon the person or company registered for trading in securities. R.S.O. 1960, c. 363, s. 56 (1-3), *amended*.

(4) No action shall be commenced under this section after the expiration of a period of three months from the date of the service of notice under subsection 1 or 2. R.S.O. 1960, c. 363, s. 56 (4).

134.(1) **Rescission of purchase of mutual fund security.**— Every purchaser of a security of a mutual fund in Ontario may, where the amount of the purchase does not exceed the sum of \$50,000, rescind the purchase by notice given to the registered dealer from whom the purchase was made within forty-eight hours after receipt of the confirmation for a lump sum purchase or within sixty days after receipt of the confirmation for the initial payment under a contractual plan but, subject to subsection (5), the amount the purchaser is entitled to recover on exercise of this right to rescind shall not exceed the net asset value of the securities purchased, at the time the right is exercised.

(2) *Idem.*— The right to rescind a purchase made under a contractual plan may be exercised only with respect to payments scheduled to be made within the time specified in subsection (1) for rescinding a purchase made under a contractual plan.

(3) **Notice.**— The notice mentioned in subsection (1) shall be in writing, and may be given by prepaid mail, telegram or other means.

(4) **Service.**— A confirmation sent by prepaid mail shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed.

(5) **Reimbursement.**— Every registered dealer from whom the purchase was made shall reimburse the purchaser who has exercised his right of rescission in accordance with this section for the amount of sales charges and fees relevant to the investment of the purchaser in the mutual fund in respect of the shares or units of which the notice of exercise of the right of rescission was given. 1978, c. 47, s. 134.

134. (1) Every purchaser of a security of a mutual fund in Ontario may, where the amount of the purchase does not exceed the sum of \$50,000, rescind the purchase by notice given to the registered dealer from whom the purchase was made within forty-eight hours after receipt of the confirmation for a lump sum purchase or within sixty days after receipt of the confirmation for the initial payment under a contractual plan but, subject to subsection 5, the amount the purchaser is entitled to recover on exercise of this right to rescind shall not exceed the net asset value of the securities purchased, at the time the right is exercised.

(2) The right to rescind a purchase made under a contractual plan may be exercised only with respect to payments scheduled to be made within the time specified in subsection 1 for rescinding a purchase made under a contractual plan.

(3) The notice mentioned in subsection 1 shall be in writing, and may be given by prepaid mail, telegram or other means.

(4) A confirmation sent by prepaid mail shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed.

(5) Every registered dealer from whom the purchase was made shall reimburse the purchaser who has exercised his right of rescission in accordance with this section for the amount of sales charges and fees relevant to the investment of the purchaser in the mutual fund in respect of the shares or units of which the notice of exercise of the right of rescission was given. *N/a.*

no action shall be commenced to enforce a right created by this Part more than,

- (a) in the case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or
- (b) in the case of any action, other than an action for rescission, the earlier of,
 - (i) 180 days after the plaintiff first had knowledge of the facts giving rise to the cause of action, or
 - (ii) three years after the date of the transaction that gave rise to the cause of action. 1978, c. 47, s. 135.

1982

18. Section 135 of the said Act is amended by adding thereto the following subsection

- (2) Notwithstanding subsection (1), no action shall be commenced to enforce the right created under section 120a more than 120 days after the date on which payment was made for the securities or after the date on which the initial payment for the securities was made where payments subsequent to the initial payment are made pursuant to a contractual commitment assumed prior to, or concurrently with, the initial payment.

1978

135. Unless otherwise provided in this Act, no action shall be commenced to enforce a right created by this Part more than,

- (a) in the case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action, or
- (b) in the case of any action, other than an action for rescission, the earlier of,
 - (i) 180 days after the plaintiff first had knowledge of the facts giving rise to the cause of action, or
 - (ii) three years after the date of the transaction that gave rise to the cause of action. 1978,

PART XXIII
GENERAL PROVISIONS

136. Admissibility in evidence of certified statements.—A statement as to,

- (a) the registration or non-registration of any person or company;
 - (b) the filing or non-filing of any document or material required or permitted to be filed;
 - (c) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, company, document or material; or
 - (d) the date the facts upon which any proceedings are to be based first came to the knowledge of the Commission.
- purporting to be certified by the Commission or a member thereof or by the Director is, without proof of the office or signature of the person certifying, admissible in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. 1978, c. 47, s. 136.

1978

136. A statement as to,

- (a) the registration or non-registration of any person or company;
 - (b) the filing or non-filing of any document or material required or permitted to be filed;
 - (c) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, company, document or material; or
 - (d) the date the facts upon which any proceedings are to be based first came to the knowledge of the Commission,
- purporting to be certified by the Commission or a member thereof or by the Director is, without proof of the office or signature of the person certifying, admissible in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 426, s. 148, *amended*.

1970

148. A statement as to,

- (a) the registration or non-registration of any person or company;
 - (b) the filing or non-filing of any document or material required or permitted to be filed with the Commission; or
 - (c) any other matter pertaining to such registration, non-registration, filing or non-filing or to any such person, document or material,
- purporting to be certified by the Commission or a member thereof or by the Director is, without proof of the office or signature of the person certifying, receivable in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. 1966, c. 142, s. 145; 1968, c. 123, s. 42.

1968

~~42.~~ Section 145 of *The Securities Act, 1966* is amended by striking out "or the Registrar" in the eleventh line.

1966

145. A statement as to,

- (a) the registration or non-registration of any person or company;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Commission; or
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing or to any such person, document or material.

purporting to be certified by the Commission or a member thereof or by the Director or the Registrar is, without proof of the office or signature of the person certifying, receivable in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. R.S.O. 1960, c. 363, s. 73.

137.(1) Filing and inspection of material.—Where this Act or the regulations require that material be filed, the filing shall be effected by depositing the material, or causing it to be deposited, with the Commission and all material so filed shall, subject to subsection (2), be made available by the Commission for public inspection during the normal business hours of the Commission.

(2) *Idem*.—Notwithstanding subsection (1), the Commission may hold material or any class of material required to be filed by this Act in confidence so long as the Commission is of the opinion that the material so held discloses intimate financial, personal or other information and that the desirability of avoiding disclosure thereof in the interests of any person or company affected outweighs the desirability of adhering to the principle that material filed with the Commission be available to the public for inspection. 1978, c. 47, s. 137.

138.(1) Immunity of Commission and officers.—No action or other proceeding for damages shall be instituted against the Commission or any member thereof, or any officer, servant or agent of the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

(2) Immunity re intended compliance.—No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company for any act or omission of the last-mentioned person or company done or omitted in compliance with this Act, the regulations or any direction, decision, order, ruling or other requirement made or given under this Act or the regulations.

(3) Liability of Crown.—Subsection (1) does not, by reason of subsections 5(2) and (3) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by the Commission or any person referred to in subsection (1) to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1978, c. 47, s. 138.

1978

137. (1) Where this Act or the regulations require that material be filed, the filing shall be effected by depositing the material, or causing it to be deposited, with the Commission and all material so filed shall, subject to subsection 2, be made available by the Commission for public inspection during the normal business hours of the Commission.

(2) Notwithstanding subsection 1, the Commission may hold material or any class of material required to be filed by this Act in confidence so long as the Commission is of the opinion that the material so held discloses intimate financial, personal or other information and that the desirability of avoiding disclosure thereof in the interests of any person or company affected outweighs the desirability of adhering to the principle that material filed with the Commission be available to the public for inspection. *New.*

1982

19. Section 138 of the said Act is amended by adding thereto the following subsection:

(2a) For the purposes of subsection (2), where, pursuant to a procedure agreed to by the Commission, a chartered accountant, a solicitor or any other person whose profession gives authority to a statement made by him is appointed under section 5 to assist the Commission in determining whether there has been a contravention of the Act or the regulations, any act or omission, done or omitted in good faith by the person so appointed, in the discharge or intended discharge of his appointment, or by any professional organization or association that has nominated him for such appointment, shall be considered to be done or omitted in compliance with this Act

138. - (1) No action or other proceeding for damages shall be instituted against the Commission or any member thereof, or any officer, servant or agent of the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

(2) No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company for any act or omission of the last-mentioned person or company done or omitted in compliance with this Act, the regulations or any direction, decision, order, ruling or other requirement made or given under this Act or the regulations. R.S.O. 1970, c. 426, s. 145, *amended*.

(3) Subsection 1 does not, by reason of subsections 2 and 3 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by the Commission or any person referred to in subsection 1 to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted. *New*.

145.—(1) Except with the consent of the Minister, no action whatever and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy lies or shall be instituted,

(a) against any person, whether in his public or private capacity, or against any company in respect of any act or omission in connection with the administration or the carrying out of the provisions of this Act or the regulations where such person is a member of the Commission, a representative of the Commission or the Director, or where such person or company was proceeding under the written or oral direction or consent of any one of them or under an order of the Minister made under this Act; or

(b) against any exchange auditor, district association auditor or association auditor, employed under clause *b* of section 30, in respect of the performance of his duties as such. 1966, c. 142, s. 142 (1); 1968, c. 123, s. 41 (1).

(2) No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company in respect of any act or omission of the last-mentioned person or company done or omitted in compliance or intended compliance with,

(a) any requirement, order or direction under this Act of,
(i) the Commission or any member thereof,

(ii) the Director,

(iii) any person appointed by order of the Minister,

(iv) the Minister,

(v) any representative of the Minister, the Commission, the Director or of any person appointed by the Minister, or

(b) this Act and the regulations. 1966, c. 142, s. 142 (2); 1968, c. 123, s. 41 (2, 3).

1968

41.—(1) Clause *a* of subsection 1. of section 142 of *The Securities Act, 1966* is amended by striking out "or Registrar" in the seventh line.

(2) Subclause iii of clause *a* of subsection 2 of the said section 142 is repealed.

(3) Subclause vi of clause *a* of subsection 2 of the said section 142 is amended by striking out "or Registrar" in the second line.

1978

139. The Lieutenant Governor in Council may make regulations,

1. prescribing categories for persons and companies and the manner of allocating persons and companies to categories, and prescribing the form and content of prospectuses, preliminary prospectuses, *pro forma* prospectuses and statements of material facts to be filed by, and financial conditions applicable to, persons and companies in accordance with their categories;
2. designating mutual funds or a class or classes thereof as private mutual funds;
3. designating banking transactions for the purposes of subparagraph iv of paragraph 43 of subsection 1 of section 1;
4. prescribing the form and content of financial statements and interim financial statements required to be filed under this Act;
5. prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registrations;
6. classifying registrants into categories and prescribing the terms and conditions of registration of registrants in each category but no registrant shall be included in a category designated as,
 - i. investment dealer, unless he is a member of the Ontario District of the Investment Dealers' Association of Canada,
 - ii. broker, unless he is a member of a stock exchange in Ontario recognized by the Commission,
 - iii. broker-dealer, unless he is a member of the Broker-Dealers' Association of Ontario;
7. regulating the listing and trading of securities and records relating thereto;
8. governing the furnishing of information to the public or to the Commission by a registrant in connection with securities or trades therein;

12. respecting fees payable by an issuer to management company as consideration for investment advice, alone or together with administrative or management services, provided by the management company to the mutual fund;
13. respecting sales charges imposed by a distribution company or contractual plan service company under a contractual plan on purchasers of shares or units of a mutual fund, and commissions to be paid to salesmen of shares or units of a mutual fund;
14. designating any person or company or any class of persons or companies who shall not be required to obtain registration as an adviser;
15. prescribing the fees payable to the Commission including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
16. prescribing the documents, certificates, reports, releases, statements, agreements and other information and the form and content and other particulars relating thereto that are required to be filed, furnished or delivered under this Act and the regulations;
17. prescribing the practice and procedure of investigation under sections 11 and 13;
18. prescribing the forms for use under this Act and the regulations;
19. prescribing trades or securities, in addition to the trades and securities referred to in section 34, in respect of which registration shall not be required;
20. prescribing trades or securities, referred to in section 34 in respect of which there shall cease to be exemption from registration;
21. prescribing trades or securities, in addition to the trades and securities referred to in sections 71 and 72, in respect of which section 52 does not apply;
22. prescribing trades or securities in respect of which sections 52 and 61 shall be applicable notwithstanding sections 71 and 72;
23. exempting any seller or class of sellers from the requirements of subclauses 71(7)(b)(i) and (ii);
24. prescribing terms and conditions that shall be contained in an escrow or pooling agreement with respect to securities issued for a consideration other than cash;
25. prescribing the practice and procedure by which the Commission recognizes exempt purchasers under paragraph 4 of subsection 34(1);

1982

51. Section 139 of the said Act is amended by adding thereto the following paragraph:

8b. prescribing the form and content of the financial statements to be provided to the customer of a registered dealer under section 41.

1979

17. (1) Paragraph 1 of section 139 of the said Act is repealed and the following substituted therefor:

1. prescribing categories for persons and companies and the manner of allocating persons and companies to categories, including permitting the Director to make such allocations; and prescribing the form and content of and governing the use of prospectuses, preliminary prospectuses, *pro forma* prospectuses, summary statements and statements of material facts to be filed by, and financial conditions applicable to, persons and companies in accordance with their categories.

(2) The said section 139 is amended by adding thereto the following paragraphs:

8a. governing the furnishing of information by a registrant or class of registrants to a person or company recognized by the Commission and governing the payment of fees with respect thereto;

25a. requiring any issuer or class of issuers to comply with Part XVII of any provision thereof.

1. prescribing categories for persons and companies and the manner of allocating persons and companies to categories, including permitting the Director to make such allocations; and prescribing the form and content of and governing the use of prospectuses, preliminary prospectuses, *pro forma* prospectuses, summary statements and statements of material facts to be filed by, and financial conditions applicable to, persons and companies in accordance with their categories;
2. designating mutual funds or a class or classes thereof as private mutual funds;
3. designating banking transactions for the purposes of subparagraph iv of paragraph 43 of subsection 1(1);
4. prescribing the form and content of financial statements and interim financial statements required to be filed under this Act;
5. prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registrations;
6. classifying registrants into categories and prescribing the terms and conditions of registration of registrants in each category but no registrant shall be included in a category designated as:
 - i. investment dealer, unless he is a member of the Ontario District of the Investment Dealers' Association of Canada,
 - ii. broker, unless he is a member of a stock exchange in Ontario recognized by the Commission,
 - iii. broker-dealer, unless he is a member of the Broker-Dealers' Association of Ontario;
7. regulating the listing and trading of securities and records relating thereto;
8. governing the furnishing of information to the public or to the Commission by a registrant in connection with securities or trades therein;
9. governing the furnishing of information by a registrant or class of registrants to a person or company recognized by the Commission and governing the payment of fees with respect thereto;
10. regulating the trading of securities other than on a stock exchange recognized by the Commission;
11. governing the keeping of accounts and records, the preparation and filing of financial statements of the affairs of the security issuers and the audit requirements with respect thereto;

142.—(1) Except with the consent of the Minister, no action whatever and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy lies or shall be instituted,

(a) against any person, whether in his public or private capacity, or against any company in respect of any act or omission in connection with the administration or the carrying out of the provisions of this Act or the regulations where such person is a member of the Commission, a representative of the Commission or the Director or Registrar, or where such person or company was proceeding under the written or oral direction or consent of any one of them or under an order of the Minister made under this Act; or

(b) against any exchange auditor, district association auditor or association auditor, employed under clause 6 of section 30, in respect of the performance of his duties as such. R.S.O. 1960, c. 363, s. 70, *amended*.

(2) No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company in respect of any act or omission of the last-mentioned person or company done or omitted in compliance or intended compliance with,

(a) any requirement, order or direction under this Act of,

(i) the Commission or any member thereof,

(ii) the Director,

(iii) the Registrar,

(iv) any person appointed by order of the Minister,

(v) the Minister,

(vi) any representative of the Minister, the Commission, the Director or Registrar or of any person appointed by the Minister; or

(b) this Act and the regulations. R.S.O. 1960, c. 363, s. 71, *amended*.

1982

50. The said Act is further amended by adding thereto the following section:

138a—(1) Subject to subsection (2), this Act applies to,

(a) Her Majesty in right of Canada;

(b) Her Majesty in right of Ontario; and

(c) Her Majesty in right of any other province or territory of Canada,

and agents and servants thereof.

(2) Subsections 11 (4) and (6), sections 16, 17 and 59, subsection 72 (3) and sections 118, 122, 126, 126a, 127, 131, 131a, 132 and 135 do not apply to,

(a) Her Majesty in right of Canada;

(b) Her Majesty in right of Ontario;

(c) Her Majesty in right of any other province or territory of Canada, or

(d) an agent or servant of Her Majesty, where the matter arises from the performance of a duty or the exercise of a power as an agent or servant of Her Majesty or from any neglect or default in the performance or exercise of such duty or power.

26. exempting any category of registered advisers from the provisions of section 39 or varying the provisions of section 39, as they apply to any category of registered advisers;
27. prescribing the information required or permitted to be distributed under subsection 64(2);
28. respecting the matters referred to in clause 60(2)(h), and, without limiting the generality of the foregoing, pertaining to requirements as to paid-up capital and surplus, liquidity of assets, ratios of debt to paid-up capital and surplus, audit procedures, the furnishing of interim financial statements and the provisions of trust indentures and the qualifications, rights, duties and obligations of trustees thereunder;
29. requiring any issuer or class of issuers to comply with Part XVII or any provision thereof;
30. respecting the content and distribution of written, printed or visual material and advertising that may be distributed or used by a person or company with respect to a security whether in the course of distribution or otherwise;
31. prescribing the form and content of the reports to be filed under Part XX;
32. respecting any other matter necessary or advisable to carry out effectively the intent and purpose of Part XIX or Part XX;
33. prescribing the form and content of the take-over bid circular, issuer bid circular, directors' circular and a director's or officer's circular required by Part XIX;
34. prescribing a penalty for the early redemption of shares or units of a mutual fund;
35. prescribing the form and content of proxies, information circulars and reports required by Parts XVII or XVIII;
36. permitting the Commission or the Director to exempt any person or company from the provisions of the regulations or vary the provisions as they apply to any person or company. 1978, c. 47, s. 139; 1979, c. 86, s. 17.

9. regulating the trading of securities other than stock exchange recognized by the Commission;
10. governing the keeping of accounts and record preparation and filing of financial statement affairs of the security issuers and the audit matters with respect thereto;
11. respecting fees payable by an issuer to a mutual company as consideration for, in advice, alone or together with, administrative management services, provided by the mutual company to the mutual fund;
12. respecting sales charges imposed by a distribution company or contractual plan service company on a contractual plan on purchasers of shares of a mutual fund, and commissions to be paid to salesmen of shares or units of a mutual fund;
13. designating any person or company or an agent of persons or companies who shall not be required to obtain registration as an adviser;
14. prescribing the fees payable to the Commission including fees for filing, fees upon application for registration, fees in respect of audits made by the Commission and other fees in connection with administration of this Act and the regulation;
15. prescribing the documents, certificates, releases, statements, agreements and other information and the form, content and other parts relating thereto that are required to be furnished or delivered under this Act and the regulations;
16. prescribing the practice and procedure of investigations under sections 11 and 13;
17. prescribing the forms for use under this Act and the regulations;
18. prescribing trades or securities, in addition to trades and securities referred to in section 34, in respect of which registration shall not be required;
19. prescribing trades or securities, referred to in section 34 in respect of which there shall be an exemption from registration;

20. prescribing trades or securities, in addition to trades and securities referred to in sections 71 and 72, in respect of which section 52 does not apply;
21. prescribing trades or securities in respect of which sections 52 and 61 shall be applicable notwithstanding sections 71 and 72;
22. exempting any seller or class of sellers from requirements of subclauses i and ii of clause b of section 7 of section 71;
23. prescribing terms and conditions that shall be contained in an escrow or pooling agreement in respect to securities issued for a consideration other than cash;
24. prescribing the practice and procedure by which the Commission recognizes exempt purchasers in paragraph 4 of subsection 1 of section 34;
25. exempting any category of registered advisers from the provisions of section 39 or varying the provisions of section 39, as they apply to any category of registered advisers;

26. prescribing the information required or permitted to be distributed under subsection 2 of section 64;
27. respecting the matters referred to in clause *b* of subsection 2 of section 60, and, without limiting the generality of the foregoing, pertaining to requirements as to paid-up capital and surplus, liquidation of assets, ratios of debt to paid-up capital and surplus, audit procedures, the furnishing of interim financial statements and the provisions of trust indentures and the qualifications, rights, duties and obligations of trustees thereunder;
28. respecting the content and distribution of written printed or visual material and advertising that may be distributed or used by a person or company with respect to a security whether in the course of distribution or otherwise;
29. prescribing the form and content of the reports to be filed under Part XX;
30. respecting any other matter necessary or advisable to carry out effectively the intent and purpose of Part XIX or Part XX;
31. prescribing the form and content of a take-over bid circular, issuer bid circular, directors' circular and a director's or officer's circular required by Part XIX;
32. prescribing a penalty for the early redemption of shares or units of a mutual fund;
33. prescribing the form and content of proxies, information circulars and reports required by Parts XVII and XVIIII;
34. permitting the Commission or the Director to exempt any person or company from the provisions of the regulations or vary the provisions as they apply to any person or company. R.S.O. 1970, c. 426, s. 147; 1971, c. 31, s. 46, *amended*.

1971

40. Section 144 of *The Securities Act, 1966*, as amended by section 3 of *The Securities Amendment Act, 1967* and section 10 of *The Securities Amendment Act, 1968-69*, is further amended by adding thereto the following clause:

(*pa*) prescribing the manner of calculating basic earnings per share and fully diluted earnings per share for the purposes of clauses *aa* and *c* of subsection 1 of section 118.

1970

147. The Lieutenant Governor in Council may make regulations,

- (a) prescribing categories for companies and the manner of allocating companies to categories, and prescribing the form and content of prospectuses and statements of material facts to be filed with the Commission by companies in accordance with their categories;
- (b) prescribing the content of the financial statement to be contained with the prospectuses of mining exploration companies or any category thereof in lieu of the financial statement required by section 43 or exempting any category from the application of section 43;
- (c) prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registrations;
- (d) classifying registrants into categories and prescribing the terms and conditions of registration of registrants in each category but no registrant shall be included in a category designated as:
 - (i) investment dealer, unless he is a member of the Ontario District of the Investment Dealers' Association of Canada,
 - (ii) broker, unless he is a member of a stock exchange in Ontario recognized by the Commission,
 - (iii) broker-dealer, unless he is a member of the Broker Dealers' Association of Ontario,
- (e) regulating the listing and trading of securities and, records relating thereto,
- (f) governing the furnishing of information to the public or to the Commission by a registrant in connection with securities or trades therein,
- (g) regulating the trading of securities other than on a stock exchange recognized by the Commission,
- (h) governing the keeping of accounts and records, the preparation and filing of financial statements of the

- affairs of security issuers and the audit requirements with respect thereto;
- (i) designating any person or company or any class of persons or companies that shall not be required to obtain registration as adviser;
 - (j) prescribing the fees payable to the Commission, including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
 - (k) prescribing the documents, reports, statements, agreements and other information and the form, content and other particulars relating thereto that are required to be filed, furnished or delivered under this Act and the regulations;
 - (l) prescribing the practice and procedure of investigations under sections 21 and 23;
 - (m) prescribing the forms for use under this Act and the regulations;
 - (n) prescribing trades or securities, in addition to the trades and securities referred to in section 19, in respect of which registration shall not be required;
 - (o) prescribing trades or securities referred to in section 19 in respect of which there shall be no trading exemption under this Act;
 - (p) prescribing trades or securities, in addition to the trades and securities referred to in section 19, in respect of which section 35 does not apply;
 - (q) prescribing trades or securities in that have not been listed on the New York Stock Exchange, which are exempted from the application of section 35;
 - (r) prescribing the practice and procedure by which the Commission may determine whether a person or company is a security issuer for the purposes of this Act;
 - (s) prescribing the information required or permitted to be distributed under clause a of subsection 2 of section 36;
 - (t) prescribing or allowing or forbidding the distribution of written or printed material by a person or company with respect to a security whether in the course of primary distribution to the public or in a market;
 - (u) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1966, c. 142, s. 441, 1967, c. 92, s. 3, 1968-69, c. 146, s. 30.

10. (1) Section 144 of *The Securities Act, 1966*, as amended by section 3 of *The Securities Amendment Act, 1967*, is further amended by adding thereto the following clauses:

(aa) prescribing the content of the financial statement to be contained with the prospectuses of mining exploration companies or any category thereof in lieu of the financial statement required by section 43 or exempting any category from the application of section 43;

(ba) classifying registrants into categories and prescribing the terms and conditions of registration of registrants in each category but no registrant shall be included in a category designated as,

(i) investment dealer, unless he is a member of the Ontario District of the Investment Dealers' Association of Canada,

(ii) broker, unless he is a member of a stock exchange in Ontario recognized by the Commission,

(iii) broker-dealer, unless he is a member of the Broker Dealers' Association of Ontario;

(da) regulating the trading of securities other than on a stock exchange recognized by the Commission.

(2) Clause f of the said section 144 is amended by striking out "investment counsel or securities adviser" in the third and fourth lines and inserting in lieu thereof "adviser", so that the clause shall read as follows:

(f) designating any person or company or any class of persons or companies that shall not be required to obtain registration as adviser.

1967

3. Clause *a* of section 144 of *The Securities Act, 1966* is repealed and the following substituted therefor:

- (a) prescribing categories for companies and the manner of allocating companies to categories, and prescribing the form and content of prospectuses and statements of material facts to be filed with the Commission by companies in accordance with their categories.

1966

144. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form and content of prospectuses and statements of material facts;
- (b) prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registrations;
- (c) regulating the listing and trading of securities and records relating thereto;
- (d) governing the furnishing of information to the public or to the Commission by a registrant in connection with securities or trades therein;
- (e) governing the keeping of accounts and records, the preparation and filing of financial statements of the affairs of security issuers and the audit requirements with respect thereto;

- (f) designating any person or company or any class of persons or companies that shall not be required to obtain registration as investment counsel or securities adviser;
- (g) prescribing the fees payable to the Commission, including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
- (h) prescribing the documents, reports, statements, agreements and other information and the form, content and other particulars relating thereto that are required to be filed, furnished or delivered under this Act and the regulations;
- (i) prescribing the practice and procedure of investigations under sections 24 and 23;
- (j) prescribing the forms for use under this Act and the regulations;
- (k) prescribing trades or securities, in addition to the trades and securities referred to in section 19, in respect of which registration shall not be required;
- (l) prescribing trades or securities referred to in section 19 in respect of which there shall cease to be exemption from registration;
- (m) prescribing trades or securities, in addition to the trades and securities referred to in section 58, in respect of which section 35 does not apply;
- (n) prescribing terms and conditions that shall be contained in an escrow or pooling agreement with respect to securities issued for a consideration other than cash;
- (o) prescribing the practice and procedure by which the Commission recognizes exempt purchasers under paragraph 3 of subsection 1-61 section 19;
- (p) prescribing the information required or permitted to be distributed under clause a of subsection 2 of section 36;
- (q) prohibiting or otherwise regulating the distribution of written or printed material by a person or company with respect to a security whether in the course of primary distribution to the public or otherwise;

(r) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 363, s. 72; 1962-63, c. 131, s. 24; 1964, c. 107, s. 3, *amended*.

1982

52. Section 140 of the said Act is repealed and the following substituted therefor:

140. Commission's discretion to revoke or vary its decision. — The Commission may, where in its opinion to do so would not be prejudicial to the public interest, make an order on such terms and conditions as it may impose revoking or varying any decisions made by it under this Act or the regulations, 1978, c. 47, s. 140.

140. The Commission may, where in its opinion to do so would not be prejudicial to the public interest, make an order, on such terms and conditions as it may impose, revoking or varying any decisions made by it under this Act or the regulations or under a predecessor of this Act or the regulations made thereunder.

1978

140. The Commission may, where in its opinion to do so would not be prejudicial to the public interest, make an order on such terms and conditions as it may impose revoking or varying any decisions made by it under this Act or the regulations. *New.*

1978

141. Continuation of registration. — Every registration made and receipt for a prospectus issued under *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970 and in effect immediately before the 15th day of September, 1979, continues in the same manner as if made or issued under this Act, 1978, c. 47, s. 141.

141. Every registration made and receipt for a prospectus issued under *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970 and in effect immediately before this Act comes into force, continues in the same manner as if made or issued under this Act. *New.*

1978

142. The following are repealed:

1. *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970;
2. *The Securities Amendment Act, 1971*, being chapter 31;
3. *The Securities Amendment Act, 1973*, being chapter 11;
4. Section 55 of *The Government Reorganization Act, 1972*, being chapter 1.

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